

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA

-----x  
UNITED STATES OF AMERICA, :  
 :  
 -v.- :  
 :  
 ZACARIAS MOUSSAOUI, :  
 :  
 Defendant, : Criminal No. 01-455-A  
 :  
 :  
 ALL PLAINTIFFS NAMED IN 21 MC 97, :  
 21 MC 101, AND 03 CV 9849, :  
 :  
 Movants-Intervenors. :  
 :  
-----x

**GOVERNMENT'S MEMORANDUM OF LAW IN OPPOSITION TO MOTION OF  
PUTATIVE INTERVENORS FOR ACCESS TO CERTAIN PORTIONS OF THE RECORD**

CHUCK ROSENBERG  
UNITED STATES ATTORNEY

Robert A. Spencer  
David J. Novak  
David Raskin  
Assistant United States Attorneys

Beth E. Goldman  
Sarah S. Normand  
Assistant United States Attorneys  
Southern District of New York

Douglas N. Letter  
Terrorism Litigation Counsel  
U.S. Department of Justice

**TABLE OF CONTENTS**

Statement of Facts ..... 2

    A.    TSA’s Statutory and Regulatory Duty to Protect Sensitive Security Information ..... 2

    B.    The Government’s Intervention in the September 11 Litigation Pending in New York ..... 5

    C.    TSA’s Final Orders ..... 8

    D.    Use of Sensitive Security Information in This Case ..... 11

        1.    The Protective Order Governing SSI ..... 11

        2.    SSI Used at Trial ..... 12

ARGUMENT ..... 14

POINT I: THE MOVANTS ARE ENTITLED TO ACCESS TO DOCUMENTARY EXHIBITS USED PUBLICLY AT TRIAL, BUT ONLY TO THE EXTENT AVAILABLE TO THE MEDIA INTERVENORS ..... 14

POINT II: THE MOVANTS ARE NOT ENTITLED TO SENSITIVE SECURITY INFORMATION PRODUCED TO DEFENSE COUNSEL ..... 16

    A.    The Courts of Appeals Have Exclusive Jurisdiction To Consider Challenges to TSA’s Final Orders ..... 16

    B.    The Movants Have No Right of Access to SSI Produced to Defense Counsel ..... 18

CONCLUSION ..... 25

**TABLE OF AUTHORITIES**

<u>Cases:</u>	<u>Page</u>
<u>Brady v. Maryland</u> , 373 U.S. 83 (1963) .....	24
<u>Chowdhury v. Northwest Airlines Corporation</u> , 226 F.R.D. 608 (N.D. Cal. 2004) .....	17, 24
<u>In re Federal Communications Commission</u> , 217 F.3d 125 (2d Cir. 2000) .....	18
<u>In re September 11 Litigation</u> , 2006 WL 846346 (S.D.N.Y. Mar. 31, 2006) .....	15
<u>Gilmore v. Gonzales</u> , 435 F.3d 1125 (9th Cir. 2006) .....	17
<u>In re Associated Press</u> , No. 06-1301, 2006 WL 752044 (4th Cir. Mar. 22, 2006) .....	13, 15
<u>Telecommunications Research Action Center v.</u> <u>Federal Communications Commission</u> , 750 F.2d 70 (D.C. Cir. 1984) .....	17
<u>United States v. Any &amp; All Radio Station</u> <u>Transmission Equipment</u> , 207 F.3d 458 (8th Cir. 2000) .....	18
 <u>Statutes:</u>	
18 U.S.C. § 3771(a) .....	23
18 U.S.C. § 3771(a) (8) .....	23
28 U.S.C. § 2112 .....	11
49 U.S.C. 114(s) .....	passim
49 U.S.C. § 1542.303 .....	20
49 U.S.C. § 1544.305 .....	20
49 U.S.C. § 40119(b) (1) (C) .....	3

49 U.S.C. § 46110	passim
49 U.S.C. § 46110(a)	16
49 U.S.C. § 46110(c)	16
Air Transportation Safety and System Stabilization Act, Pub. L. No. 107-42, § 408(b)(3), 115 Stat. 230, 241 (2001)	5
Aviation and Transportation Security Act, Pub. L. No. 107-71, § 101, 115 Stat. 597, 597-604 (2001)	2, 3
Crime Victims' Rights Act, 18 U.S.C. § 3771	23
Homeland Security Act of 2002, Pub. L. No. 107-296, § 101(b)(1), 116 Stat. 2135, 2142 (2002)	3
Virginia Victims' Rights Statute, Va. Stat. § 19.2-265.01	23

Rules and Regulations:

49 C.F.R. Part 1520	3, 9
49 C.F.R. § 1520.5(a)(3)	4
49 C.F.R. § 1520.5(b)	4, 12, 13
49 C.F.R. § 1520.5(b)(2)	12, 20
49 C.F.R. § 1520.5(b)(16)	4
49 C.F.R. § 1520.9(a)	5
49 C.F.R. § 1520.11(a)	5
49 C.F.R. § 1520.15(a)	5
49 C.F.R. § 1520.15(e)	9
69 Fed. Reg. 28066 (May 18, 2004)	3, 23
Fed. R. Crim. P. 16	24



Miscellaneous:

H.R. Conf. Rep. 109-241 (May 17, 2005) ..... 20

[Http://www.nysd.uscourts.gov/Sept11Litigation.html](http://www.nysd.uscourts.gov/Sept11Litigation.html) ..... 6

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA

-----x  
UNITED STATES OF AMERICA, :  
 :  
 -v.- :  
 :  
 ZACARIAS MOUSSAOUI, :  
 : Criminal No. 01-455-A  
 Defendant, :  
 :  
 ALL PLAINTIFFS NAMED IN 21 MC 97, :  
 21 MC 101, AND 03 CV 9849, :  
 :  
 Movants-Intervenors. :  
 :  
-----x

**GOVERNMENT'S MEMORANDUM OF LAW IN OPPOSITION TO MOTION OF  
PUTATIVE INTERVENORS FOR ACCESS TO CERTAIN PORTIONS OF THE RECORD**

The United States of America (the "Government") respectfully submits this memorandum of law in opposition to the motion filed by plaintiffs in the consolidated civil litigation pending in the Southern District of New York arising out of the events of September 11, 2001 (collectively, the "Movants"), seeking access to sensitive aviation security information ("Sensitive Security Information" or "SSI") used or produced to defendant's counsel in this criminal proceeding.

The Movants improperly seek relief from this Court from decisions made by the Transportation Security Administration ("TSA") regarding access to SSI. The Movants have sought to obtain SSI in discovery in the September 11 Litigation, but TSA, applying a nationwide policy of nondisclosure of SSI in civil litigation, has denied them such access and issued final orders

to that effect. As the Movants well know, TSA's final orders are subject to review only in an appropriate court of appeals, pursuant to 49 U.S.C. § 46110, and, in fact, the Movants have filed petitions for review of those orders in two Courts of Appeals.

The Movants' attempt to obtain SSI through this proceeding constitutes an end-run around the exclusive jurisdiction of the Court of Appeals. Not only does this Court lack jurisdiction to rule on TSA's SSI determinations under 49 U.S.C. § 46110, but a ruling by this Court would improperly interfere with the jurisdiction of the courts before which the petitions for review are pending. In any event, none of the bases offered by the Movants for obtaining access to SSI produced in discovery in this case has any merit. Neither the Crime Victims Rights Act, nor prior proceedings in this case, nor the fact that the defendant's counsel has had access to SSI for purposes of the defense, gives the Movants any right of access to SSI or any basis for disregarding the exclusive jurisdiction of the Court of Appeals.

#### **STATEMENT OF FACTS**

##### **A. TSA's Statutory and Regulatory Duty to Protect Sensitive Security Information**

To improve the security of the nation's aviation system following the tragic events of September 11, 2001, Congress passed the Aviation and Transportation Security Act ("ATSA"), by which it created the TSA and charged it with oversight of

security for the nation's transportation systems, including commercial aviation. ATSA, Pub. L. No. 107-71, § 101, 115 Stat. 597, 597-604 (2001). Subsequently, Congress transferred TSA to the newly created U.S. Department of Homeland Security ("DHS"), whose primary mission is to "prevent terrorist attacks within the United States, . . . [and] reduce the vulnerability of the United States to terrorism." Homeland Security Act of 2002, Pub. L. No. 107-296, § 101(b)(1), 116 Stat. 2135, 2142 (2002).

As part of ATSA, and again under the Homeland Security Act, Congress directed TSA, as it had previously directed the Federal Aviation Administration ("FAA"), to "prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out [civil aviation] security . . . if [TSA] decides that disclosing the information would . . . be detrimental to the security of transportation." 49 U.S.C. § 114(s) (formerly codified at 49 U.S.C. § 40119(b)(1)(C)). In accordance with this statutory directive, TSA reissued regulations previously promulgated by the FAA, prohibiting disclosure of SSI. See 49 C.F.R. Part 1520.<sup>1</sup>

Consistent with the statute, the regulations describe SSI as "information obtained or developed in the conduct of security activities . . . the disclosure of which TSA has determined would

---

<sup>1</sup> The regulations were subsequently amended in May 2004. 69 Fed. Reg. 28066 (May 18, 2004).

. . . [b]e detrimental to the security of transportation.” 49 C.F.R. § 1520.5(a)(3). The regulations set forth a non-exclusive list of information and records constituting SSI, including, among others, the following categories of SSI:

- any approved, accepted, or standard security plan for airport operators or air carriers;
- Security Directives and Information Circulars issued by FAA or TSA to airport operators or air carriers;
- any selection criteria used in any security screening process;
- any security contingency plan;
- technical specifications of any device used for the detection of weapons;
- specific details of aviation security measures; and
- the locations at which particular screening methods or equipment are used.

49 C.F.R. § 1520.5(b). The regulations provide that SSI also consists of “[a]ny information not otherwise described . . . that TSA determines is SSI under 49 U.S.C. 114(s).” 49 C.F.R. § 1520.5(b)(16).

The need to protect SSI stems primarily from the extent to which this information, if compromised in whole or in part, would reveal systemic vulnerabilities of the transportation system or of specific transportation facilities that would make it more likely for terrorists to succeed in their attacks and, therefore, make such attacks more likely to be attempted and more difficult

to prevent. Declaration of Beth E. Goldman ("Goldman Decl.") Ex. A at tab A ¶ 5. Thus, disclosure of SSI is generally restricted to those persons with an operational need to know the information, such as air carriers and airport operators who are charged by law with certain aviation security functions. 49 C.F.R. §§ 1520.11, 1520.15(a). Members of the public, including civil litigants and their attorneys who do not come within the regulatory need-to-know category, are barred from gaining access to SSI. See 49 C.F.R. §§ 1520.9(a), 1520.11(a); Goldman Decl. Ex. A at tab A ¶ 6.

**B. The Government's Intervention in the September 11 Litigation Pending in New York**

Under the Air Transportation Safety and System Stabilization Act, Pub. L. No. 107-42, § 408(b)(3), 115 Stat. 230, 241 (2001), the United States District Court for the Southern District of New York has original and exclusive jurisdiction over all actions brought for any claim (including any claim for loss of property, personal injury, or death) resulting from or relating to the terrorist-related aircraft crashes of September 11, 2001. Accordingly, all wrongful death, personal injury, property damage and business loss claims arising out of the September 11 terrorist attacks, other than claims against alleged terrorists, have been brought and are pending in New York before the

Honorable Alvin K. Hellerstein (the "September 11 Litigation").<sup>2</sup>

In June, 2002, the United States, on behalf of TSA, moved to intervene in the September 11 Litigation for the purpose of enforcing federal statutory and regulatory non-disclosure requirements governing SSI. Goldman Decl. ¶ 2. In a report dated February 2004, TSA advised Judge Hellerstein that following the September 11 attacks, TSA had determined that it was in the best interests of the traveling public to restrict, to the greatest extent possible, the dissemination of any SSI that could be used to thwart security countermeasures by those intent upon committing criminal acts against civil transportation. Second Report of the Transportation Security Administration Regarding SSI-Related Discovery ("TSA Report") at 6 (attached to Goldman Decl. as Ex. A). Accordingly, TSA advised that, since September 11, 2001, TSA had not authorized access to SSI for civil litigants or their counsel who did not otherwise have a regulatory need to know. TSA Report at 7-8.

TSA further advised that its consistent nationwide policy

---

<sup>2</sup> On July 24, 2002, Judge Hellerstein consolidated all actions for wrongful death, personal injury and property damage or business loss under master docket 21 MC 97 (AKH). In an order dated March 10, 2005, the court transferred the majority of the property damage and business loss actions to a new master docket, 21 MC 101 (AKH). See <http://www.nysd.uscourts.gov/Sept11Litigation.htm>. The Movants here represent all plaintiffs in those consolidated actions, as well as plaintiffs in Burnett v. Al Bakara Inv. & Dev. Corp., 03 Civ. 9849 (RCC) (S.D.N.Y.), in which plaintiffs have brought claims against alleged terrorists and sponsors of terrorism.

was to deny any requests for exceptions to the policy of non-disclosure of SSI in civil litigation. TSA Report at 8-9. With respect specifically to the September 11 Litigation, the Report explained that TSA had carefully considered less restrictive alternatives to its strict non-disclosure policy, including the possibility of limited disclosure of SSI to attorneys who had undergone a clearance procedure. Id. at 12. TSA determined, however, in its expert judgment, that even limited, conditional disclosure of SSI would be detrimental to transportation security. Thus, plaintiffs in the September 11 Litigation were not granted an exception to the non-disclosure policy. Id. at 7-8, 12.

Instead, as provided in TSA regulations, TSA committed to reviewing documents requested from the aviation defendants in discovery for the purpose of segregating non-SSI from SSI, where practicable. Id. at 10. TSA subsequently completed its review of certain "first wave" discovery documents and authorized the release of documents that did not contain SSI. Goldman Decl. ¶ 3. Plaintiffs later sought disclosure of certain "second wave" documents, which consisted of more than 20,000 pages, all of which were reviewed by TSA to ensure that all non-SSI material was authorized for release in the litigation. Id. ¶ 4. The documents were carefully reviewed on a line-by-line basis by agency security experts and redacted, where possible, for

release. Goldman Decl. Ex. C at 1-2. Even a cursory review of TSA's SSI determinations in the September 11 Litigation demonstrates that the Movants' assertion that "TSA has sought to prevent the discovery of all documents by declaring everything SSI," Memorandum in Support of Motion for Access to Certain Portions of the Record ("Mem.") at 3, is wildly inaccurate. See Goldman Decl. Ex. C.

In November 2005, plaintiffs in the September 11 Litigation asked TSA to reconsider its decision regarding non-disclosure of SSI, or alternatively, if TSA did not change its position, to issue final, appealable orders with respect to the first and second waves of discovery.

### **C. TSA's Final Orders**

On February 7, 2006, the Administrator of TSA issued a final order ("February 7 Order") (attached to Goldman Decl. as Ex. B) with respect to various requests, by both plaintiffs and defendants, for conditional disclosure of SSI in the litigation.<sup>3</sup> Plaintiffs in the September 11 Litigation had requested that a small group of attorneys be granted access to SSI under a protective order. February 7 Order at 2. The February 7 Order expressly denied that request, noting that "consistent with its

---

<sup>3</sup> We note that TSA attorney Carla Martin has not worked on the September 11 Litigation since March 2004. Goldman Decl. ¶ 8. She had no involvement whatsoever in TSA's issuance of Final Orders in connection with the September 11 Litigation. Id.

goal to reduce significantly the number of persons with access to SSI, since September 11, 2001, TSA has denied all requests to see SSI by civil litigants and/or their attorneys who do not otherwise have a need to know, as defined in 49 C.F.R. Part 1520." Id. at 4. The Order further reiterated that TSA has "carefully considered less restrictive alternatives to its non-disclosure policy and has given particular thought to the suggestion of a limited disclosure of SSI in th[e] litigation to those attorneys who have undergone a clearance procedure." Id. However, "in the current threat environment, extending SSI access to persons who need access to it only for civil litigation purposes cannot be justified, and it is [the TSA Administrator's] judgment that disclosure, even under controlled conditions, presents a risk to transportation security." Id. at 5. Accordingly, TSA denied the requests for conditional disclosure of SSI under 49 C.F.R. § 1520.15(e) because the TSA Administrator "did not find that such disclosure would not be detrimental to transportation security." Id. The Order expressly provided that persons disclosing a substantial interest therein could file a petition for review under 49 U.S.C. § 46110 in an appropriate U.S. Court of Appeals. Id.

On March 17, 2006, TSA issued a second final order, covering the designations by TSA of SSI in the "second wave" of discovery ("March 17 Order") (attached to Goldman Decl. as Ex. C). The

Order explained that TSA security experts had carefully reviewed the 20,000 pages of submitted documents for the purpose of identifying SSI and redacting the documents to delete SSI where possible. March 17 Order at 1. The Order also explained that TSA "paid particular attention to identifying any older information that no longer needed to be protected." Id. at 2. However, "while some aspects of the security programs in effect as of September 11, 2001, have been superceded by new measures, significant elements of the programs remain in effect, or have been modified only subtly, and thus release today of information pertaining to those programs could compromise transportation security." Id. Accordingly, the Order continued, "the date of a particular communication or directive reveals little about the sensitivity of the information therein." Id. Like the February 7 Order, the March 17 Order provided that any person with a substantial interest in the order could file a petition for review in an appropriate U.S. Court of Appeals. Id. at 3.<sup>4</sup>

Plaintiffs have filed numerous petitions for review of both the February 7 and March 17 orders in the U.S. Court of Appeals for the Second Circuit. Goldman Decl. ¶ 7. The first of plaintiffs' petitions was filed on March 20, 2006, and plaintiffs continue to file additional petitions for review in the Second

---

<sup>4</sup> An additional final order with respect to the "first wave" discovery documents is forthcoming. Goldman Dec. ¶ 4.

Circuit. Id. Numerous defendants have petitioned for review of both final orders in the D.C. Circuit. Id. On April 3 and 5, 2006, certain plaintiffs also filed petitions for review in the D.C. Circuit. Id. The petitions for review will ultimately be consolidated for review in either the Second or the D.C. Circuit in accordance with 28 U.S.C. § 2112.

**D. Use of Sensitive Security Information in This Case**

**1. The Protective Order Governing SSI**

On June 11, 2002, this Court entered a Protective Order for Sensitive Aviation Security Information ("Protective Order"), which has governed the use and handling of SSI in this case. In the Protective Order, the Court made several findings with regard to SSI, including that unauthorized disclosure of SSI materials produced in discovery in this case "would be detrimental to the safety of passengers in air transportation." Protective Order at 1. The Court ordered that defense counsel may not disclose to the defendant any material provided by the Government in discovery that has been designated as SSI. Id. at 2.

The Court also imposed several other restrictions on the use of SSI in this case. The Court ordered that "any papers filed with the Court involving, discussing, attaching, including or referring to the contents of[] any SSI material shall be filed under seal and shall not be served on defendant." Id. Further, under the Protective Order, defense counsel "shall not use or

disclose any SSI material at trial or in any hearing or other proceeding absent further order of the Court.” Id. at 3.

## **2. SSI Used at Trial**

Although Security Directives (“SDs”) are considered categorical SSI by regulation, 49 C.F.R. § 1520.5(b)(2), in response to a joint request from Government counsel and defense counsel, the Deputy Administrator of TSA determined that nine SDs could be released in redacted form for use in the public trial proceeding, pursuant to 49 C.F.R. § 1520.5(b). See Determination Regarding Redacted Security Directives for Use in United States v. Moussaoui (“TSA Determination Regarding SDs”) (attached to Goldman Decl. as Ex. D). Specifically, TSA determined that

[t]he compelling interests at stake in *United States v. Moussaoui*, which include both the federal government’s interest in combating and prosecuting terrorism and the protection of the defendant’s constitutional rights, warrant a narrow exception to the categorical designation of Security Directives as SSI. Accordingly, TSA has redacted the nine Security Directives for use in the public trial proceeding. In the unusual circumstances presented, I determine that the release of such a limited amount of information will not be detrimental to transportation security.

Accordingly, pursuant to 49 C.F.R. § 1520.5(b), TSA authorized the use of the nine Security Directives, as redacted, in this trial proceeding. Id.

Decisions regarding redaction of the nine Security Directives were made by security experts at TSA. See Mar. 21, 2006 Tr. at 27-29, 37-38. Although Carla Martin participated in

this process, as Assistant United States Attorney David Novak advised the Court previously, she did not make substantive decisions regarding redaction of these documents. Id. at 37-38.

On March 22, 2006, the Government introduced five of the nine redacted SDs into evidence, as well as a videotape of a security checkpoint at the Dulles Airport on September 11, 2001. See Mar. 22, 2006 Tr. at 1810 (Ex. OG-105), 1819 (Ex. G-106), 1825 (Ex. OG-107), 1828 (Ex. OG-111), 1832-33 (Ex. OG-110), 1854 (Ex. NT00211). Although portions of these exhibits were published to the jury during the testimony of Robert Cammaroto, they were not fully published to the jury. See id. Pursuant to the Fourth Circuit's decision in In re Associated Press, No. 06-1301, 2006 WL 752044 (4th Cir. Mar. 22, 2006), as implemented by this Court, the exhibits will not be provided to the press until after the verdict. See 2006 WL 752044, at \*3 (denying writ of mandamus to the extent petitioners sought access to any documentary exhibit that had been admitted into evidence but not yet fully published to the jury); Mar. 22, 2006 Tr. at 1788-89 ("If you don't show it to the jury in its entirety, the media doesn't have a right to it, but the Fourth Circuit has taken the position that if you have shown it to the jury, then the public has seen it, and the public now has the right to access to it even if the jury wouldn't have it until they deliberate."); see also Order dated Mar. 24, 2006 (trial counsel must arrange for

public availability of all unclassified documentary exhibits admitted into evidence and published in their entirety to the jury no later than 10 a.m. on the business day immediately following the day the exhibit was fully published to the jury).

## **ARGUMENT**

### **POINT I**

#### **THE MOVANTS ARE ENTITLED TO ACCESS TO DOCUMENTARY EXHIBITS USED PUBLICLY AT TRIAL, BUT ONLY TO THE EXTENT AVAILABLE TO THE MEDIA INTERVENORS**

The Movants seek "immediate and identical access to all documentary evidence ordered to be released to the Media-Intervenors pursuant to the Fourth Circuit's Order dated March 23, 2006." Mem. at 4. Prior to the filing of the instant motion, however, counsel representing TSA advised liaison counsel for both plaintiffs and defendants in the September 11 Litigation that TSA would provide to the parties in that case copies of any redacted SDs used publicly in this trial. See Goldman Decl. ¶ 10. Because TSA has agreed to provide counsel with these documents, the Court need not order the requested relief.

The Movants also seek access to "any and all documentary exhibits which have been admitted into evidence but which have not yet been fully published to the jury," Mem. at 6, but such relief is foreclosed by the Fourth Circuit's decision. In its decision, the Court of Appeals expressly endorsed this Court's determination that, with respect to exhibits not fully published

to the jury, "the administrative burdens, to the court and to the parties, associated with requiring piecemeal access to partially admitted exhibits justify a refusal to provide access to admitted exhibits until they have been fully published to the jury." In re Associated Press, 2006 WL 752044, at \*3. The administrative burdens of piecemeal access apply equally to the Movants as to the press. Indeed, the press arguably has even greater need for immediate access to documentary exhibits for purposes of reporting on the trial, whereas the Movants seek access to such documents for purposes of a civil litigation in which there are no immediate deadlines requiring access to the documents.<sup>5</sup>

Likewise, documents that have been sent to the jury room but not fully published in open court, see Mem. at 6, are not required to be provided to the Media Intervenors, nor to the Movants herein, at this time. See In re Associated Press, 2006 WL 752044, at \*3 (noting that "Petitioners are not entitled to access which has not been granted to the public at large"). The Movants offer no basis to provide them with greater or more immediate access to documentary exhibits than that granted to the press in the Fourth Circuit's decision, and the Court accordingly

---

<sup>5</sup> In an Order issued on March 31, 2006, Judge Hellerstein adjourned depositions in the case until May, and indicated that he would entertain a motion for a stay of the Order to allow TSA or any other party to appeal certain rulings with regard to the protocol for handling SSI at depositions. See In re September 11 Litigation, 2006 WL 846346, at \*10 (S.D.N.Y. Mar. 31, 2006).

should deny the Movants' request.

## POINT II

### THE MOVANTS ARE NOT ENTITLED TO SENSITIVE SECURITY INFORMATION PRODUCED TO DEFENSE COUNSEL

#### A. The Courts of Appeals Have Exclusive Jurisdiction To Consider Challenges to TSA's Final Orders

Under 49 U.S.C. § 46110, "a person disclosing a substantial interest in an order" issued by TSA pursuant to 49 U.S.C. § 114(s) may apply for review of the order by filing a petition for review in the U. S. Court of Appeals for the District of Columbia Circuit or in the court of appeals in which the person resides or has its principal place of business. 49 U.S.C. § 46110(a). The court of appeals in which the petition is filed has "exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order." 49 U.S.C. § 46110(c) (emphasis added).

TSA's final orders determining that plaintiffs in the September 11 Litigation will not be granted an exception to the regulatory policy of non-disclosure of SSI in civil litigation and designating certain information as SSI were issued pursuant to 49 U.S.C. § 114(s), and thus fall squarely within the purview of Section 46110. Goldman Decl. Exs. B-C. To the extent review of TSA's SSI determinations is available, see 5 U.S.C. § 701(a)(2) (judicial review precluded where agency action committed to agency discretion by law), such review lies

exclusively within the province of the Court of Appeals, and this Court therefore lacks jurisdiction to entertain a challenge to TSA's orders. See Gilmore v. Gonzales, 435 F.3d 1125, 1133 (9th Cir. 2006) (district court lacked jurisdiction to hear challenges to identification policy embodied in TSA final order); Chowdhury v. Northwest Airlines Corp., 226 F.R.D. 608, 614 (N.D. Cal. 2004) ("Congress has expressly provided that an appeal from an order of the TSA pursuant to section 114(s) (non-disclosure of certain information) lies exclusively with the Court of Appeals."). To the extent any party to the September 11 Litigation seeks judicial review of TSA's final orders, they must, as they have, file petitions for review in the appropriate Courts of Appeals.

The Movants seek to obtain from this Court precisely what was denied by TSA in its February 7 Final Order -- namely, an exception to TSA's nationwide policy of non-disclosure of SSI in civil litigation. Not only is this Court without jurisdiction to consider any challenge to that final order under 49 U.S.C. § 46110, as set forth above, this Court also may not impair the jurisdiction of the Court of Appeals by taking action that would interfere with the Court of Appeals' ability to resolve the matters before it. See Telecomms. Research Action Ctr. v. FCC, 750 F.2d 70, 78-79 (D.C. Cir. 1984) ("where a statute commits review of agency action to the Court of Appeals, any suit seeking relief that might affect the Circuit Court's future jurisdiction

is subject to the exclusive review of the Court of Appeals"); In re FCC, 217 F.3d 125, 139 (2d Cir. 2000) (exclusive jurisdiction in court of appeals extends to "collateral attacks"); United States v. Any & All Radio Station Transmission Equip., 207 F.3d 458, 463 (8th Cir 2000) (party cannot do "end run" by challenging regulations in district court that are properly challenged exclusively in court of appeals). The Court should therefore deny the Movants' request to obtain the SSI produced to defendant's counsel in discovery in this case, as contrary to the statutory scheme granting the Courts of Appeals exclusive jurisdiction to review TSA's final orders.

**B. The Movants Have No Right of Access to SSI Produced to Defense Counsel**

In any event, the Movants have not established that they have any entitlement to obtain SSI in the context of this criminal proceeding.<sup>6</sup> The Movants' contention that there has

---

<sup>6</sup> As articulated in their brief, the Movants' request for access to "any documentary evidence provided by the Government to attorneys representing Defendant Moussaoui," Mem. at 6, is so broad as to encompass classified national security information, to which the Movants plainly would have no right of access. Cf. Order dated Mar. 24, 2006 at n.1 (exempting classified exhibits from Order requiring public availability of documentary exhibits that have been admitted into evidence and fully published to the jury). The Movants' motion, however, is limited to documentary evidence provided to defense counsel "pursuant to the Protective Order For Sensitive Aviation Security Information entered by this Court on June 11, 2002." Motion for Access to Certain Parts of the Record at 5. The Government accordingly construes the Movants' request as a request for disclosure of SSI produced to defense counsel in discovery in this proceeding.

been "unacceptable collusion between the TSA and the attorneys representing the airline defendants," Mem. at 2, is wholly unfounded. Regardless of Ms. Martin's conduct in connection with this case, Ms. Martin has not participated in the September 11 Litigation since March 2004, and she had no involvement whatsoever in the Final Orders issued on February 7, 2006, and March 17, 2006, which embody TSA's final determinations with regard to the litigation. See Goldman Decl. ¶ 8. Moreover, defendants as well as plaintiffs in the September 11 Litigation have filed petitions for review of TSA's Final Orders. Id. ¶ 7. The Movants' claim that Ms. Martin's email communications with two attorneys for the aviation defendants "illustrate the lengths the TSA is going to in an effort to prevent the Movants from obtaining access to these documents," Mem. at 3, is thus entirely without basis.

The Movants' reliance on Mr. Novak's comments at the March 21, 2006 evidentiary hearing, Mem. at 3, is equally misplaced. On that date, Mr. Novak expressed the view that as to specific SDs from 1995 through 1998 relating to the Bojinka plot and Khalid Sheikh Mohammed, "there can't be a threat to ongoing airline security, because the guy's captured." Mar. 21, 2006 Tr. at 36-37. As a threshold matter, by statute, Congress entrusted TSA with sole authority to determine when disclosure of aviation security information would be detrimental to transportation

security. See 49 U.S.C. § 114(s). Pursuant to 49 C.F.R. § 1520.5(b)(2), moreover, Security Directives constitute SSI unless otherwise provided in writing by the TSA. TSA has explained:

Security Directives are one of the primary means by which the federal government mandates aviation security measures: when TSA determines that additional security measures are necessary to respond to a threat assessment or to a specific threat against civil aviation, it issues a Security Directive setting forth mandatory measures to be followed by airport and aircraft operators. See 49 U.S.C. §§ 1542.303, 1544.305. The criticality of these documents warrants their categorical designation as SSI.

TSA Determination Regarding SDs.<sup>7</sup>

Because of the unique circumstances of this case, including both the federal government's interest in combating and prosecuting terrorism and the protection of the defendant's constitutional rights, TSA determined that a narrow exception to the categorical designation of Security Directives as SSI was warranted. See id. The limited disclosure of SSI authorized in this case, however, in no way alters or undermines TSA's overall regulatory policy regarding SDs or other SSI. Indeed, TSA's

---

<sup>7</sup> The congressional conference report cited by the Movants, Mem. at 3 (citing H.R. Conf. Rep. 109-241 (Sept. 17, 2005)), is inapposite. The report, which directs DHS' Office of Security "to ensure the Department's classified and security sensitive documents clearly identify, paragraph-by-paragraph, which paragraphs contain classified information and which do not," H.R. Conf. Report 109-241, at 37, has no bearing on TSA's regulatory determination that SDs constitute SSI in their entirety.

determination to authorize release of redacted SDs in this case was based, in significant part, on the limited nature of the release. See id. (finding that "release of such a limited amount of information will not be detrimental to transportation security"). It does not follow that the substantial amount of SSI produced to defense counsel in discovery in this case should be turned over to the Movants.

Further, Mr. Novak's comments at the March 21, 2006 evidentiary hearing were directed to specific SDs that the Government sought to use at trial; he did not call into question TSA's general regulatory policy of designating Security Directives as categorical SSI. See Mar. 21, 2006 Tr. at 36-37. To the contrary, the Government's counsel has been scrupulous about protecting SSI from public disclosure in this case, as evidenced by the Protective Order that counsel requested the Court to enter.

As both Mr. Cammaroto and Mr. Novak noted, moreover, in determining what security countermeasures to mandate in a Security Directive, the FAA (prior to September 11, 2001) and now TSA consider what security measures have worked, or not worked, in the past. See id. at 21 ("Then we would also look back historically at security directives or emergency amendments that we'd issued previously where the measures had proven successful or something that might give us a hint as to what would better

address the situation at hand."); id. at 36 (AUSA Novak noting that "you would turn to what was in the past, as Mr. Cammaroto said, and use that as a road map as to what you would affix here in the future"); Mar. 22, 2006 Tr. at 1801 (Cammaroto trial testimony that "[w]e had historical SDs that we had issued previously, because these were issued very frequently or modified very frequently, so we had quite a library of them"); id. ("Q. When you talk about -- you said you had a library of them. You keep the old ones handy so you can take a look at them to see what you can use from the past, to kind of cut and paste and use in a current situation?" "A. Yes, sir, that's correct.").

This is the principal basis for TSA's policy that "only if a security countermeasure is obsolete, in that it will not be revived and therefore reveals nothing about current or future security countermeasures, or if security intelligence is overtaken by events, will information lose its SSI protection and be released publicly." March 17 Order at 2. As TSA explained when issuing its current SSI regulations:

Normally, the passage of time or the updating of security procedures or measures does not affect the SSI status of superceded security procedures. In most cases, key elements of the superseded procedures are carried forward or otherwise reflected in new procedures. In addition, where TSA rescinds a Security Directive because the particular threat it addresses has receded, TSA may reinstitute the security measures described in the directive to address threats that may arise in the future. Therefore, improper disclosure of the superseded or rescinded procedures would continue to be detrimental to transportation security.

See 69 Fed. Reg. at 28072. For all of these reasons, the Movants' claim that TSA has improperly designated Security Directives as categorical SSI, see Mem. at 3, is unavailing.

The Movants' sweeping assertion that victims of crime are entitled to access to documents produced in discovery to criminal defendants, see Mem. at 6-8, also fails. Neither the Crime Victims' Rights Act ("CVRA"), 18 U.S.C. § 3771, nor the Virginia Victims' Rights Statute, Va. Stat. § 19.2-265.01, on which the Movants rely, Mem. at 7, grants any such entitlement. Those statutes afford victims of crime certain rights, including a right of access to public court proceedings. They do not, however, grant any right of access to documents produced in discovery pursuant to a Protective Order, much less documents the disclosure of which is prohibited by federal law. See 18 U.S.C. § 3771(a) (listing rights of crime victims, which do not include any right of access to documents). Nor does the CVRA's provision of a general "right to be treated with fairness and with respect for the victim's dignity and privacy," 18 U.S.C. § 3771(a)(8), cited in Mem. at 7-8, create any right of action to obtain discovery materials in a criminal proceeding or otherwise trump the statutory and regulatory prohibition on disclosure of SSI.

Finally, the Movants' claim that "[t]here is simply no compelling reason" why the defendant's counsel should be granted access to SSI when they are not, Mem. at 8, fails to appreciate

that the defendant in this case has a constitutional and statutory right to obtain (through his counsel) certain information in discovery, see Fed. R. Crim. P. 16; Brady v. Maryland, 373 U.S. 83 (1963); cf. also Protective Order at 2 (finding that any discovery value of SSI material under Brady and Rule 16 "is substantially satisfied by production to defense counsel"), that civil litigants do not have, see Chowdhury, 226 F.R.D. at 610-15 (SSI subject to statutory privilege and thus not available in civil discovery). The Government was required to produce SSI to defense counsel or else forego prosecution and allow the defendant to escape punishment for his crimes.

There is a substantial difference, moreover, between TSA's authorization of disclosure of SSI in a criminal proceeding that the Government may choose to bring on behalf of the people of the United States, and the disclosure of SSI in an unlimited number of civil actions to which the Government is not a party and over which it has no control. TSA's determination not to authorize conditional disclosure of SSI to the Movants and other parties in the September 11 Litigation is consistent with the position taken by TSA in every civil litigation since September 11, 2001, in which SSI has been at issue. February 7 Order at 4. While TSA is sensitive to the impact of its security decisions on the Movants, and has expended substantial effort to minimize that impact, TSA ultimately determined that disclosure of SSI in the

September 11 Litigation would be detrimental to transportation security. See id. That determination is subject to exclusive review in the appropriate Court of Appeals and should not be disturbed by this Court.

**CONCLUSION**

For the foregoing reasons, the Court should deny the Movants' request for relief.

Dated: Arlington, Virginia  
April 5, 2006

Respectfully,

CHUCK ROSENBERG  
United States Attorney

By: \_\_\_\_\_ /s/

Robert A. Spencer  
David J. Novak  
David Raskin  
Assistant United States Attorneys

Beth E. Goldman  
Sarah S. Normand  
Assistant United States Attorneys  
Southern District of New York

Douglas N. Letter  
Terrorism Litigation Counsel  
U.S. Department of Justice

CERTIFICATE OF SERVICE

I certify that on the 5<sup>th</sup> day of April, 2006, a copy of the foregoing Government pleading was mailed to the following counsel:

Gerald T. Zerkin, Esquire  
Kenneth P. Troccoli, Esquire  
Office of the Federal Public Defender  
Eastern District of Virginia  
1650 King Street  
Suite 500  
Alexandria, Virginia 22314

Edward B. MacMahon, Jr., Esquire  
107 East Washington Street  
P.O. Box 903  
Middleburg, Virginia 20118

I further certify that a copy of the foregoing pleading was served by e-mail on the following counsel for intervenors:

Ronald Motley, Esq  
Motley Rice LLC  
rmotley@motleyrice.com

Marc S. Moller, Esq.  
Kreindler and Kreindler  
MMoller@kreindler.com

Robert A. Clifford, Esq.  
Clifford Law Offices  
rac@cliffordlaw.com

Richard A. Williamson, Esq.  
Fleming Zulack Williamson Zauderer LLP  
rwilliamson@fzw.com

\_\_\_\_\_  
/s/

Robert A. Spencer  
Assistant U.S. Attorney

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA

-----X  
: UNITED STATES OF AMERICA, :  
: :  
: -v.- :  
: :  
: ZACARIAS MOUSSAOUI, :  
: : Criminal No. 01-455-A  
: Defendant, :  
: : **DECLARATION OF**  
: : **BETH E. GOLDMAN**  
: ALL PLAINTIFFS NAMED IN 21 MC 97, :  
: 21 MC 101, AND 03 CV 9849, :  
: :  
: Movants-Intervenors. :  
: :  
-----X

BETH E. GOLDMAN declares, pursuant to the provisions of  
28 U.S.C. § 1746, as follows:

1. I am an Assistant United States Attorney in the  
Office of Michael J. Garcia, United States Attorney for the  
Southern District of New York. I am one of the attorneys  
representing the United States in the consolidated September 11  
Litigation, 21 MC 97 and 21 MC 101, pending in the Southern  
District of New York before the Honorable Alvin K. Hellerstein.  
I submit this declaration in opposition to the motion of putative  
intervenors -- plaintiffs in the September 11 Litigation --  
seeking access, among other things, to sensitive security  
information produced to defendants' counsel in this case. I make  
this declaration based on personal knowledge and information  
provided to me in the conduct of my official duties.

The September 11 Litigation

2. In June, 2002, the United States, on behalf of the Transportation Security Administration ("TSA"), moved to intervene in the September 11 Litigation for the purpose of enforcing federal statutory and regulatory non-disclosure requirements governing SSI. In a report dated February 2004, TSA advised Judge Hellerstein that following the September 11 attacks, TSA had determined that it was in the best interests of the traveling public to restrict, to the greatest extent possible, the dissemination of any SSI that could be used to thwart security countermeasures by those intent upon committing criminal acts against civil transportation. A copy of the Second Report of the Transportation Security Administration Regarding SSI-Related Discovery is attached hereto as Exhibit A.

3. The report advised that TSA would make no exceptions to its nationwide policy of denying requests for access to SSI in civil litigation. In order to assist the parties to the September 11 Litigation in discovery, TSA committed to reviewing documents requested from the aviation defendants in discovery for the purpose of segregating non-SSI from SSI, where practicable. TSA subsequently completed its review of certain "first wave" discovery documents and authorized the release of documents that did not contain SSI.

4. Plaintiffs later sought disclosure of certain

"second wave" documents, which consisted of more than 20,000 pages, all of which were reviewed by TSA to ensure that all non-SSI material was authorized for release in the litigation. The documents were carefully reviewed on a line-by-line basis by agency security experts and redacted, where possible, for release.

TSA's Final Orders and the Petitions for Review

5. In November 2005, plaintiffs in the September 11 Litigation asked TSA to reconsider its decision regarding non-disclosure of SSI, or alternatively, if TSA did not change its position, to issue final, appealable orders with respect to the first and second waves of discovery. Accordingly, on February 7, 2006, the Administrator of TSA issued a final order with respect to various requests, by both plaintiffs and defendants, for conditional disclosure of SSI in the September 11 Litigation. A copy of the February 7 Final Order is attached hereto as Exhibit B.

6. On March 17, 2006, TSA issued a second final order, covering the designations by TSA of SSI in the "second wave" of discovery. A copy of the March 17, 2006 Final Order is attached hereto as Exhibit C. TSA will shortly issue an additional final order with respect to its SSI determinations in the "first wave" of discovery.

7. The first petition for review of TSA's final

orders was filed by one of the defendants on March 17, 2006, in the United States Court of Appeals for the District of Columbia Circuit, pursuant to 49 U.S.C. § 46110. Plaintiffs began filing petitions for review of both the February 7 and March 17 Final Orders on March 20, 2006, in the United States Court of Appeals for the Second Circuit, and plaintiffs are continuing to file additional petitions for review in the Second Circuit. On April 3 and 5, 2006, various plaintiffs filed a petitions for review in the D.C. Circuit as well.

8. TSA attorney Carla Martin has not worked on the September 11 Litigation since March 2004. She had no involvement whatsoever in TSA's issuance of either of the Final Orders.

SSI Used at Trial in this Case

9. Although Security Directives ("SDs") are considered categorical SSI by regulation, 49 C.F.R. § 1520.5(b)(2), in response to a joint request from Government counsel and defense counsel, TSA determined that nine SDs could be released in redacted form for use in the public trial proceeding, pursuant to 49 C.F.R. § 1520.5(b). The Determination Regarding Redacted Security Directives for Use in United States v. Moussaoui, is attached hereto as Exhibit D.

10. On or about March 27, 2006, I advised liaison counsel for plaintiffs and defendants in the September 11 Litigation that TSA would make available to the parties any





Pursuant to the Court's request on December 11, 2003, Intervenor United States of America, on behalf of the Transportation Security Administration (TSA), respectfully submits this report setting forth TSA's position regarding discovery in the September 11 Litigation relating to Sensitive Security Information (SSI).

Plaintiffs have sought many documents in discovery that by law are subject to TSA's review and may not be disclosed without TSA's authorization. Upon review by TSA, some documents will be determined to constitute SSI and some will not. In striking an appropriate balance between the important interests at stake in this litigation and the need to protect against the inherent risks associated with dissemination of SSI, TSA will authorize the release of non-SSI documents, and, to the extent practicable, authorize the release of documents that can be redacted without revealing vulnerabilities of the transportation security system. On the other hand, documents containing SSI, the disclosure of which would pose substantial risk to the traveling public, will not, consistent with TSA's national non-disclosure policy, be authorized for release.

As set forth more fully in the accompanying declaration of Stephen J. McHale, Deputy Administrator of TSA, dated February 5, 2004, TSA continues to determine that it is in the best interests of the traveling public and persons in transportation to restrict, to the greatest extent possible, the release of any

SSI material that could be used to defeat standing security countermeasures by those intent upon committing criminal attacks against civil transportation.

The threat to United States civil aviation remains significant. Intelligence reports indicate that terrorists continue to develop plans for catastrophic attacks against targets in the United States and United States interests overseas, including against commercial aircraft. The country remains on an elevated (Code Yellow) alert, and has, on three occasions in the past year, been on high (Code Orange) alert for terrorist attacks. Intelligence information further indicates that terrorists actively search for security-related information from all available sources in order to discover vulnerabilities they can exploit in planning future attacks.

Although TSA must protect against disclosure of documents that threaten transportation security, TSA is nonetheless committed to working with the parties and the Court to identify substitutes for SSI, wherever possible, that may meet the parties' litigation needs without disclosing SSI. TSA welcomes the opportunity for discussions with the parties concerning particular documents or information, SSI substitutes, or other issues that may warrant a focused secondary review by TSA, and is prepared to reconsider particular SSI designations on a case-by-case basis. Upon issuance of a final order by TSA, any

party wishing to challenge TSA's final SSI determinations may seek review in the Court of Appeals pursuant to 49 U.S.C. § 46110.

TSA's Statutory Duty to Protect Sensitive Security Information

In order to improve the security of the nation's aviation system following the tragic events of September 11, 2001, Congress passed the Aviation and Transportation Security Act (ATSA), by which it created the Transportation Security Administration (TSA) and charged it with oversight of the nation's aviation security system. ATSA, Pub. L. No. 107-71, § 101, 115 Stat. 597, 597-604 (2001). Subsequently, Congress transferred TSA to the newly created U.S. Department of Homeland Security, whose primary mission is to "prevent terrorist attacks within the United States, . . . [and] reduce the vulnerability of the United States to terrorism." Homeland Security Act of 2002, Pub. L. 107-296, § 101(b)(1), 116 Stat. 2135, 2142 (2002).

As part of ATSA, and again under the Homeland Security Act, Congress directed TSA, as it had previously directed the Federal Aviation Administration (FAA), to prohibit disclosure of sensitive information regarding transportation security. Specifically, Congress directed the Under Secretary of Transportation for Security, now the Administrator of TSA, to "prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out [civil aviation] security .

. . . if the Under Secretary decides that disclosing the information would . . . be detrimental to the security of transportation." 49 U.S.C. § 114(s) (formerly codified at 49 U.S.C. § 40119(b)(1)(C)). In accordance with this statutory directive, TSA reissued regulations previously promulgated by the FAA, prohibiting disclosure:

The Under Secretary prohibits disclosure of information developed in the conduct of security or research and development activities . . . if, in the opinion of the Under Secretary, the disclosure of such information would . . . [b]e detrimental to the safety of persons traveling in transportation.

49 C.F.R. § 1520.3(b)(3).

The regulations set forth a non-exclusive list of information and records constituting sensitive security information (SSI). The regulations identify, among others, the following categories of SSI:

- any approved, accepted, or standard security plan for airport operators or air carriers;
- Security Directives and Information Circulars issued by FAA or TSA to airport operators or air carriers;
- any selection criteria used in any security screening process;
- any security contingency plan;
- technical specifications of any device used for the detection of weapons;
- specific details of aviation security measures; and

- the locations at which particular screening methods or equipment are used.

49 C.F.R. § 1520.7. In addition, the regulations provide that SSI also consists of "[a]ny other information, the disclosure of which TSA has prohibited under the [statutory] criteria." 49 C.F.R. § 1520.7(k). Thus, SSI includes any information developed in the conduct of security activities the disclosure of which TSA finds would be detrimental to transportation safety or security.

The need to protect SSI stems primarily from the extent to which this information, if compromised in whole or in part, would reveal systemic vulnerabilities of the transportation system or of specific transportation facilities that would make it more likely for terrorists to succeed in their attacks and, therefore, make such attacks more likely to be attempted and more difficult to prevent. Declaration of Stephen J. McHale, dated February 5, 2004 ("Feb. 5, 2004 McHale Dec."), ¶ 5 (annexed as Exhibit A). Thus, disclosure of SSI is restricted to those persons with an operational need to know, such as air carriers and airport operators who are charged by law with certain aviation security functions. 49 C.F.R. § 1520.5(b). Because they play a critical role in implementing aviation security procedures, air carriers and airport operators, among other regulated entities, are granted access to SSI by law, subject to an express duty to restrict its disclosure at all times. 49

C.F.R. §§ 1520.5(a), 1542.303(f), 1544.305(f). Should an air carrier or airport operator receive a request for SSI from someone without this regulatory need to know, the carrier or airport operator is prohibited from disclosing the information – either orally or in written form – and instead must refer the request to TSA. See 49 C.F.R. § 1520.5(a).

Members of the public, including civil litigants and their attorneys who do not come within the regulatory need-to-know category, are therefore barred from gaining access to SSI. See 49 C.F.R. §§ 1520.3(a), 1520.5(a)-(b); Feb. 5, 2004 McHale Dec. ¶ 6. SSI is not available for public disclosure even upon a request under the Freedom of Information Act or other statute. 49 U.S.C. § 114(s); 49 C.F.R. § 1520.3(a); Public Citizen, Inc. v. FAA, 988 F.2d 186, 195-96 (D.C. Cir. 1993).

TSA's SSI Policy Following September 11, 2001

The United States' interest in protecting SSI has taken on a grave, new importance in the wake of the airline hijackings and terrorist attacks of September 11, 2001. Following the September 11 attacks, TSA determined that it is in the best interests of the traveling public to restrict, to the greatest extent possible, the dissemination of any SSI that could be used to thwart security countermeasures by those intent upon committing criminal acts against civil transportation.

Declaration of Stephen J. McHale, dated September 12, 2002

("Sept. 12, 2002 McHale Dec."), ¶ 10 (annexed as Exhibit B). TSA reached this determination in significant part because intelligence reports indicated that al-Qaeda operatives have -- through media sources and other publicly available research -- obtained access to information concerning security vulnerabilities at American airports. Id. ¶ 11.

Accordingly, since September 11, TSA has not authorized access to SSI for civil litigants or their counsel who do not otherwise have a regulatory need to know. Feb. 5, 2004 McHale Dec. ¶ 7. In the past two years, numerous requests for disclosure of SSI in civil litigation have been referred to TSA pursuant to 49 C.F.R. § 1520.5(a). Id. ¶ 11. For example, documents containing SSI have been requested in several cases in which airline passengers have alleged discrimination in connection with the airlines' implementation of security screening procedures. Id. In each case, TSA has reviewed the relevant documents, segregated or redacted the SSI, where practicable, and denied authorization to produce SSI in the litigation. Id.<sup>1</sup>

Where necessary, such as where civil litigants have

---

<sup>1</sup> In two instances, TSA mistakenly authorized the release of a small number of names from so-called "No-Fly" lists. Feb. 4, 2004 McHale Dec. ¶ 11. On another occasion, the information in one Security Directive was authorized for release after TSA carefully considered the information and determined that it was obsolete and no longer presented any security concern. Id.

moved to compel production of SSI in discovery, TSA has filed statements of interest, accompanied by declarations by Deputy Administrator McHale, setting forth the agency's judgment that SSI may not be disclosed in civil litigation because such disclosure would be detrimental to transportation security. See Kalantar v. Lufthansa Airlines, No. 01 CV 00644 (D.D.C.); Baig v. United Airlines, No. 400689 (Ca. Sup. Ct.); Ahmed v. American Airlines, No. A:02-CA-363 (W.D. Tex.); Hudgins v. Southwest Airlines, No. CV 2001-015620 (Az. Sup. Ct.); Chowdhury v. Northwest Airlines, No. C 02-2665 (N.D. Ca.). To date, no court has compelled the production of SSI in civil litigation after being notified of the interests of the United States.

At the present time, TSA is not making any exceptions to its policy of non-disclosure of SSI. Feb. 5, 2004 McHale Dec. ¶ 12. Given that the threat to United States civil aviation remains significant, and that current intelligence received by the Department of Homeland Security and TSA indicates that al-Qaeda and other terrorist operatives continue to develop plans for catastrophic attacks against targets in the United States and U.S. interests overseas involving commercial aircraft, TSA must remain vigilant in protecting SSI and must continually update its security policy, including its policy regarding SSI, in order to keep pace with such dynamic threat situations. Id. ¶ 8. Within the past year, the United States has been at high alert for

terrorist attacks (Code Orange) three times for a total of several weeks, as a result of a high number of threats to civil aviation. The balance of the year has seen the country at an elevated threat advisory level (Code Yellow), which is indicative of a significant risk of terrorist attacks. Id. ¶ 9. Several international flights, and one domestic flight, have been cancelled in the past several weeks due to security-related concerns, including a number of flights just this past weekend. Id. In this heightened threat environment, TSA continues to determine that it is in the best interests of the traveling public and persons in transportation to restrict, to the greatest extent possible, the release of any SSI material that could be used to defeat standing security countermeasures by those intent on committing criminal acts against civil transportation. Id. ¶ 10.

#### TSA's SSI Policy in the September 11 Litigation

As provided in TSA regulations, any document requested from defendants in discovery that may contain SSI will be reviewed by TSA for the purpose of segregating non-SSI from SSI, where practicable. 49 C.F.R. § 1520.5(a). Documents containing SSI that can be redacted without revealing vulnerabilities of the transportation security system will be authorized for release in redacted form on a continuing basis. Feb. 5, 2004 McHale Dec. ¶ 15. TSA has completed its review of the "first wave" documents

and shortly will make available those documents or portions thereof that are permissible for disclosure. Id. ¶ 16. If there are additional requests for documents potentially containing SSI, TSA will follow a similar procedure for review of such documents, and will authorize the release of those documents or portions of documents as described above. Id. In addition, TSA is committed to working with the parties and the Court in this case to identify substitutes for SSI, wherever possible, that may meet the parties' litigation needs without disclosing SSI. Id. ¶ 14. TSA is also prepared to reconsider particular SSI designations on a case-by-case basis. Id.

Consistent with its policy of non-disclosure of SSI outside the need-to-know category, however, TSA will not authorize disclosure of documents containing SSI to any persons outside the regulatory need-to-know category in this litigation. Feb. 5, 2004 McHale Dec. ¶ 12. While TSA is sensitive to the impact this decision may have on plaintiffs' access to information and on defendants' ability to defend themselves in the litigation, TSA has determined that the risks of SSI disclosure, even in a limited venue, are too great to allow an exception to the non-disclosure policy. Id. ¶ 13. Such a determination is consistent with current law enforcement and intelligence agency information and assessments available to TSA, which clearly demonstrate that terrorists actively search open-

source materials, from the media to the internet, to discover security methods, countermeasures, and vulnerabilities they can exploit for planning future attacks against civil aviation. Id.

The courts have recognized that the Government's need to protect sensitive information must be honored, even though this need makes certain private litigation more difficult or even impossible. For example, courts have upheld the Government's invocation of the state secrets privilege, despite its serious impact on litigation. See Zuckerbraun v. General Dynamics Corp., 935 F.2d 544 (2d Cir. 1991) (affirming dismissal of private wrongful death action); see also Trulock v. Lee, Nos. 02-1476, 02-1477, 2003 WL 21267827 (4th Cir. June 3, 2003) (affirming dismissal of private defamation action); Bareford v. General Dynamics Corp., 973 F.2d 1138 (5th Cir. 1992) (affirming dismissal of private wrongful death action), cert. denied, 507 U.S. 1029 (1993); Fitzgerald v. Penthouse Int'l, Ltd., 776 F.2d 1236 (4th Cir. 1985) (affirming dismissal of private defamation suit); Northrop Corp. v. McDonnell Douglas Corp., 751 F.2d 395, 400 (D.C. Cir. 1984) (affirming application of state secret privilege to documents sought in private litigation, even where private litigant's "defense of government action will be more difficult without the government's own records of that action"); Farnsworth Cannon v. Grimes, 635 F.2d 268 (4th Cir. 1980) (en banc) (affirming dismissal of suit where government asserted

state secrets privilege over information in plaintiff's possession). Although TSA is not invoking the state secrets privilege here, it is invoking the explicit directive of Congress to restrict access to SSI embodied in 49 U.S.C. § 114(s). Such statutorily created privileges are properly applied to limit discovery in civil litigation. See Pierce County, Washington v. Guillen, 537 U.S. 129 (2003) (Congress by statute may bar discovery of information compiled or collected in connection with federal highway safety programs).<sup>2</sup>

Moreover, TSA has carefully considered less restrictive alternatives to its strict non-disclosure policy, including the possibility of limited disclosure of SSI to attorneys who have undergone a clearance procedure. Feb. 5, 2004 McHale Dec. ¶ 17. It is TSA's expert judgment, however, based on all the threat factors that are currently affecting transportation security, and civil aviation in particular, that even limited, conditional disclosure of SSI would be detrimental to transportation security. Id.; see also In the Matter of Rabih Sami Haddad, Decision and Orders of the Immigration Judge of Nov. 22, 2002 (copy annexed as Exhibit C) (attorney violated terms of explicit, court-ordered protective order, which had been entered to protect

---

<sup>2</sup> In this case, moreover, Congress and the President have established an independent, bipartisan commission to investigate and "make a full and complete accounting of the circumstances surrounding the attacks" of September 11, 2001. See Pub. L. No. 107-306, § 602, 116 Stat. 2383, 2408 (2002).

national security and law enforcement interests of United States, by faxing protected portions of declaration of FBI Special Agent to two unauthorized persons). Accordingly, TSA has decided to adhere in this case to its national policy of non-disclosure of SSI. Feb. 5, 2004 McHale Dec. ¶ 17.

#### Judicial Review of TSA's Disclosure Determinations

The Court has requested TSA to address the appropriate procedures for obtaining judicial review of TSA's determinations regarding disclosure of SSI in this litigation.

Upon completion of TSA's review of each discrete wave of documents containing SSI, including any follow-up discussions with the parties regarding particular SSI designations or SSI substitutes, TSA intends to issue a final order embodying its disclosure determinations. Under 49 U.S.C. § 46110(a),

a person disclosing a substantial interest in an order issued by . . . the Under Secretary of Transportation for Security [now the Administrator of TSA] with respect to security duties and powers designated to be carried out by the [Administrator] in whole or in part under this part, part B, or subsection (l) or (s) of section 114 may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

49 U.S.C. 46110(a). TSA's SSI determinations are among the security duties and powers designated to be carried out by TSA by statute, and are therefore subject to Section 46110(a). See, e.g., 49 U.S.C. § 114(s). Indeed, Congress recently amended

Section 46110(a) to make clear that it applies to final orders issued pursuant to 49 U.S.C. § 114(s), the primary source of TSA's authority to prohibit disclosure of SSI. See Pub. L. No. 108-176, § 228, 117 Stat. 2490, 2532 (2003).

Pursuant to Section 46110, the courts of appeals have "exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order" issued by TSA, "and may order the . . . [TSA Administrator] . . . to conduct further proceedings." 49 U.S.C. § 46110(c) (emphasis added); see also Merritt v. Shuttle, Inc., 245 F.3d 182, 187 (2d Cir. 2001) ("By its terms, Section 46110(c) precludes federal district courts from affirming, modifying, or setting aside any part of such an order."). Accordingly, to the extent the parties seek judicial review of TSA's disclosure determinations in this litigation, they must file petitions for review in the appropriate courts of appeals. See Ahmed v. American Airlines, No. Civ. A-02-CV-363, 2003 WL 1973168, at \*1 (W.D. Tex. Apr. 15, 2003) (holding that district court lacked jurisdiction, pursuant to 49 U.S.C. § 46110, to review TSA order prohibiting airline from producing SSI to plaintiffs or their counsel).<sup>3</sup>

---

<sup>3</sup> To date, two such petitions have been filed in other civil cases in which TSA issued final orders prohibiting disclosure of SSI in civil litigation. One petition, Chowdhury v. TSA, 03-40783 (2d Cir.), is presently pending before the Second Circuit. The other petition, Ahmed v. TSA, 03-1110 (D.C. Cir.), was filed in the D.C. Circuit but subsequently withdrawn as a result of the settlement of the underlying district court

Recommended Procedure for Future SSI Discovery and Review

In an effort to assist the Court for planning and case management purposes, TSA respectfully suggests the following procedure for future SSI discovery and review of TSA's disclosure determinations. As noted above, TSA has completed its review of the "first wave" documents and shortly will make its determinations available to the parties. Upon receipt of TSA's determinations with regard to the first wave, the parties may wish to have further discussions with TSA concerning particular documents or information, SSI substitutes, or other issues that may warrant a focused secondary review by TSA. TSA is prepared to reconsider on a case-by-case basis any SSI designations. At the conclusion of those discussions, TSA will issue a final order relating to the first wave documents, from which review may be sought, if necessary, in the appropriate court of appeals. To the extent the parties wish to seek expedited review in order to minimize delay of this litigation, TSA would not oppose such a request.

---

litigation.

A similar procedure is recommended with regard to any additional documents, or groups of documents, submitted to TSA for review following the first wave.

Respectfully Submitted,

PETER D. KEISLER  
Assistant Attorney General

DAVID N. KELLEY  
United States Attorney

DOUGLAS N. LETTER  
CAROLYN A. McKEE  
U.S. Department of Justice

By:           *BJ*            
BETH E. GOLDMAN  
SARAH S. NORMAND  
Assistant U.S. Attorneys  
Telephone: (212) 637-2732/2709  
Facsimile: (212) 637-2686

LOIS B. OSLER  
CARLA J. MARTIN  
Transportation Security Admin.

- Of Counsel -

A



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
:  
IN RE SEPTEMBER 11 LITIGATION :  
: 21 MC 97 (AKH)  
-----X

DECLARATION OF STEPHEN J. McHALE

I, STEPHEN J. McHALE, do hereby declare as follows:

1. I am the Deputy Administrator, Transportation Security Administration (TSA), United States Department of Homeland Security. In this position, I am responsible for assisting and acting on behalf of the TSA Administrator on security matters for all modes of transportation, including aviation security and related research and development activities. These responsibilities include, but are not limited to, developing policies, strategies, and plans dealing with the direction of Federal aviation security activities and programs with regard to all passenger, baggage, and cargo screening; enforcing security-related regulations and requirements with respect to aviation security measures performed by aircraft and airport operators operating within the United States, and by United States flag air carriers operating outside the United States; developing policies

and plans for handling threats to transportation security and, specifically, threats against civil aviation; and carrying out such other duties and exercising such other powers relating to transportation security that the Administrator deems appropriate.

2. The statements made within this Declaration are based upon my personal knowledge, information made available to me in my official capacity, and conclusions reached in accordance therewith.

3. Pursuant to the Aviation and Transportation Security Act (ATSA), Pub. L. No. 107-71, 115 Stat. 597 (2001), and the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002), the TSA is responsible for prescribing regulations that prohibit disclosure of sensitive information relating to transportation security if the TSA decides that such disclosure would be detrimental to the security of transportation.

4. As explained in my previous Declaration dated September 12, 2002, which I hereby incorporate by reference, TSA regulations under 49 C.F.R. Part 1520 relating to the protection of Sensitive Security Information (SSI) set forth particular categories of information that constitute SSI. Airport and air carrier security programs and plans, selection criteria used in security screening processes, threats of sabotage, terrorism or air piracy, Security Directives and Information Circulars, vulnerability assessments of transportation facilities, and

technical specifications of security screening and detection systems and devices, among other types of information, all constitute SSI and are thus prohibited from being publicly disclosed.

5. As stated previously, the security rationale for limiting access to SSI to those persons and entities with a regulatory need to know stems primarily from the extent to which this information, if compromised in whole or in part, would reveal systemic vulnerabilities of the transportation system or of specific transportation facilities that would make it more likely for terrorists to succeed in their attacks and therefore, make such attacks more likely to be attempted and difficult to prevent.

6. Accordingly, members of the public, including civil litigants and their counsel, who do not otherwise have a regulatory need to know this information are barred from gaining access to SSI.

7. Prior to the attacks of September 11th, limited accommodations were made in civil litigation that authorized air carrier counsel to provide certain SSI to opposing counsel pursuant to protective orders. Since September 11th, however, the TSA has not authorized access to SSI for civil litigants or their counsel who do not otherwise have a regulatory need to know.

8. Given that the threat to U.S. civil aviation remains significant, and that current intelligence received by the

Department of Homeland Security and the TSA indicates that al-Qaeda, and other terrorist operatives, continue to develop plans for catastrophic attacks against targets in the United States and U.S. interests overseas involving commercial aircraft, the TSA must re-evaluate and update its security policy in order to keep pace with such dynamic threat situations, while at the same time, continue to be vigilant in protecting SSI.

9. Within the past year, the United States has been at a high alert for terrorist attacks (Code Orange) three separate times for a total of several weeks. The elevation to a Code Orange alert was based, in part, on a high number of threats to civil aviation. The balance of the year has seen the country at an elevated threat advisory level (Code Yellow), which is indicative of a significant risk of terrorist attacks. Several international flights, and one domestic flight, have been cancelled in the past several weeks due to security-related concerns, including a number of flights just this past weekend.

10. Viewed against the backdrop of this current threat environment, the TSA continues to determine that it is in the best interests of the traveling public and persons in transportation to restrict, to the greatest extent possible, the release of any SSI material that could be used to defeat standing security countermeasures by those intent upon committing criminal attacks against civil transportation.

11. Since the September 11th attacks, numerous requests for disclosure of SSI in civil litigation have been referred to TSA for determination, pursuant to 49 C.F.R. Section 1520.5. Documents containing SSI have been requested in several civil lawsuits in which plaintiff airline passengers have alleged discrimination in connection with the airlines' implementation of security screening procedures. In each case, the TSA has reviewed the relevant documents, segregated or redacted the SSI within the documents, where practicable, and denied authorization to produce SSI in the litigation. It should be noted that, on two occasions, the TSA mistakenly authorized the release of a small number of names from so-called "No-Fly" lists. In another instance, the information in one Security Directive was authorized for release after TSA carefully considered the information and determined that it was obsolete, and no longer presented any security concern.

12. Consistent with its regulatory standard of non-disclosure of SSI outside the need-to-know category, and the determinations it has made in other civil litigation since the September 11th attacks, the TSA will not authorize disclosure of documents containing SSI to any plaintiffs' attorneys, or to other persons outside the regulatory need-to-know category, in the September 11 Litigation.

13. While the agency is sensitive to the impact this decision may have on plaintiffs' access to information and on defendants'

ability to defend themselves in the litigation, the TSA has ultimately determined that the risks of SSI disclosure, even in a limited venue, are too great to allow exceptions to its non-disclosure policy. Such a determination is consistent with current law enforcement and intelligence agency information available to the TSA, which clearly demonstrates that terrorists actively search open-source materials, from the media and the internet, in order to discover security methods and vulnerabilities they can exploit in planning future attacks against civil aviation.

14. The TSA is committed, however, to working with the parties and the Court in this case to identify substitutes for SSI, wherever possible, that may meet the parties' litigation needs without disclosing SSI. In addition, the TSA is prepared to reconsider a particular set of designations, if requested, on a case-by-case basis.

15. As provided in TSA regulations, any document requested from defendants in discovery in the September 11 Litigation that may contain SSI will be reviewed by TSA for the purpose of determining its SSI content. See 49 C.F.R. Sections 1520.3; 1520.5(a). Documents containing SSI, that can be redacted without revealing vulnerabilities of the transportation security system, will be authorized for release in redacted form to the plaintiffs on a continuing basis.

16. I have been informed that TSA personnel have completed their review of the first group of documents that are responsive to plaintiffs' discovery requests, and will shortly make available certain of those documents, or portions thereof, that are permissible for disclosure. If there are additional requests for documents potentially containing SSI, TSA will follow a similar procedure for review of such documents, and will authorize release of those documents as described above.

17. TSA has carefully considered less restrictive alternatives to its non-disclosure policy, including the alternatives set forth in my previous Declaration, and has given particular deference and thought to this Court's suggestion of a limited disclosure of SSI to those attorneys who have undergone a clearance procedure. However, it is my judgment, based on all the threat factors that are currently affecting transportation security, and civil aviation security in particular, that even limited, conditional disclosure of SSI would be detrimental to transportation security. Accordingly, the TSA has decided to

adhere in this case to its statutory and regulatory policy of non-disclosure of SSI.

Pursuant to 28 U.S.C. Section 1746, I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge and belief.

Executed on the 5/2 day of February 2004.

151  
STEPHEN J. MCHALE  
Deputy Administrator  
Transportation Security Administration  
United States Department of Homeland Security

B

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

ELLEN MARIANI, as administrator of :  
the Estate of LOUIS NEIL MARIANI, :  
deceased, :

Plaintiff, :

v. :

UNITED AIR LINES, INC., a :  
corporation, :

Defendant. :

- - - - -x

DECLARATION OF  
STEPHEN J. McHALE

01 Civ. 11628 (AKH)  
(and consolidated cases)

I, STEPHEN J. McHALE, do hereby declare as follows:

1. I am the Deputy Under Secretary, Transportation Security Administration ("TSA"), United States Department of Transportation. In this position, I am responsible for assisting and acting on behalf of the Under Secretary of Transportation for Security ("Under Secretary") on security matters for all modes of transportation, including aviation security and related research and development activities. These responsibilities include, but are not limited to, developing policies, strategies, and plans dealing with the direction of federal aviation security activities and programs with regard to all passenger, baggage, and cargo screening; enforcing security-related regulations and requirements with respect to aviation security measures performed by airlines and airports operating within the United States, and by U.S. flag

airlines operating outside the United States; developing policies and plans for handling threats to transportation security and, specifically, threats against civil aviation; and carrying out such other duties and exercising such other powers relating to transportation security that the Under Secretary deems appropriate.

2. The statements made within this declaration are based upon my personal knowledge, information made available to me in my official capacity, and conclusions reached in accordance therewith.

3. Under the Aviation and Transportation Security Act ("ATSA"), Pub. L. No.107-71, 15 Stat. 597 (2001), the Under Secretary assumed the duties and responsibilities for carrying out Chapter 449 of Title 49 of the United States Code relating to civil aviation security that were formerly held by the Administrator of the Federal Aviation Administration ("FAA"). All orders, agreements, rules, and regulations that were issued by the FAA in the performance of any function transferred by the ATSA continue in effect unless otherwise modified or revoked.

4. In the ATSA, Congress directed the Under Secretary to prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out security activities in connection with civil aviation if he decides that such

disclosure would be detrimental to the safety of passengers in transportation.

5. Accordingly, those regulations relating to the protection of Sensitive Security Information ("SSI") that were formerly promulgated by the FAA under 14 C.F.R. Part 191 have now been reissued as TSA regulations under 49 C.F.R. Part 1520. Pursuant to these recodified provisions, the Under Secretary, or his designee, has the authority to prohibit disclosure of SSI if, in his opinion, disclosure of such information would be detrimental to the safety of persons traveling in transportation.

6. 49 C.F.R. § 1520.7 sets forth the categories of information that constitute SSI. Airport and air carrier security plans, selection criteria used in security screening processes, threats of sabotage, terrorism or air piracy, Security Directives or Information Circulars, vulnerability assessments of transportation facilities, and technical specifications of security screening and detection devices, among other things, all constitute SSI and are thus protected from public disclosure.

7. The need to protect SSI stems primarily from the extent to which this information, if compromised, would reveal a systemic vulnerability of the transportation system or a vulnerability of transportation facilities that would make it

more likely for terrorists to succeed in their attacks and, therefore, make such attacks more difficult to prevent.

8. Accordingly, disclosure of SSI is restricted to those persons with an operational need to know, as set forth in TSA regulations. Members of the public, including plaintiffs in civil actions and their attorneys, do not come within this need-to-know category and are therefore barred from gaining access to SSI.

9. In order to protect against hijackings, on-board bombings, or other such criminal acts, there must be effective, standing security procedures designed to thwart or deter such conduct. The increased level of terrorism in the United States in recent years has underscored the need for heightened security measures at airports. Indeed, the White House Commission on Aviation Safety and Security, formed after the crash of TWA 800 in the waters off Long Island, New York, in 1996, made numerous recommendations in its final report issued in February 1997 to bring about an overall increase in security for civil aviation travel.

10. Prior to the devastating attacks of September 11, 2001, the FAA's Office of Civil Aviation security, in conjunction with the Chief Counsel's Office, made limited accommodations in federal court litigation that allowed air carrier counsel to provide SSI to opposing counsel pursuant to

strictly controlled protective orders. As a result of the September 11<sup>th</sup> attacks, however, the TSA is re-evaluating its entire transportation security policy, including its policy regarding SSI. In this regard, the TSA has determined that it is in the best interests of the traveling public at this time to restrict, to the greatest extent possible, the dissemination of any SSI that could be used to thwart security countermeasures by those intent upon committing criminal acts against civil transportation.

11. The TSA reached this determination in significant part because intelligence reports indicate that al-Qaeda operatives have - through media sources and other publicly available research - obtained access to information concerning security vulnerabilities at American airports. Although we do not know what part such information may have played in the decision to use U.S. civil airliners in the September 11<sup>th</sup> attacks, the TSA cannot discount the possibility at this time that SSI provided to those outside the operational need-to-know category could be exploited to further terrorist objectives and put the traveling public at greater risk.

12. Thus, the present and continuing threat of terrorist attacks against aviation interests requires that the number of persons having access to SSI be decreased, rather than increased. In these cases ("September 11 Tort Litigation"),

there is already a large number of attorneys representing passengers, ground victims, and businesses. Clearing all of them to receive SSI, along with their experts and litigation support personnel, would greatly increase the risk of unauthorized dissemination of SSI.

13. In the current heightened threat environment, the TSA's overriding concern must be the protection of the traveling public. It is the TSA's determination that any set of SSI-related discovery procedures must be informed by the strong statutory and regulatory policy against disclosing SSI to persons who lack an operational need to know such information. Non-disclosure of SSI is therefore the starting point in civil litigation, and only after SSI-related issues have become sufficiently focused in a case will the TSA consider appropriate accommodations for litigation.

14. With this in mind, the TSA has formulated proposed discovery procedures that are necessary to maintain the integrity of the SSI protective regime. Because the September 11 Tort Litigation is in its very early stages, the following proposed procedures are intended as general guidelines that may require adjustments in the future to ensure adequate protection of SSI.

**SSI SECURITY PROCEDURES FOR SEPTEMBER 11 TORT LITIGATION**

15. The TSA will not authorize disclosure of SSI at this

time to any plaintiffs' attorneys, or other persons outside the need-to-know category, as such disclosure in the September 11 Tort Litigation is premature. There remain too many unresolved issues regarding the types of claims and legal theories that will shape the litigation for the TSA to assess the import of SSI with regard to specific issues that may be in dispute. In short, the TSA has determined that disclosure of SSI in this environment poses too great a risk to the traveling public.

16. Thus, before the parties engage in SSI-related discovery, the TSA maintains that the Court should first identify the categories of claims that will comprise the September 11 Tort Litigation, and then entertain any dispositive legal motions to determine which claims will actually proceed. It is in the best interests of the traveling public, and of public safety in general, for the Court to address initially whatever claims may be resolved as a matter of law. This approach will minimize any unnecessary disclosure of SSI and the associated risks to aviation security.

17. The TSA further maintains that plaintiffs should serve defendants and the TSA with master SSI-related discovery requests only after the number of viable cases/claims has been narrowed by motion practice, and plaintiffs' steering committees have been formed.

18. The TSA will, if necessary, move the Court to limit

the scope of discovery with respect to SSI to information that is material to the specific, fact-based claims and/or defenses asserted by the parties. Requested documents or witness testimony that does not fall within these material categories of inquiry should not be subject to production. The TSA recognizes that this part of the SSI-related discovery process could remain somewhat fluid insofar as new theories of liability may develop over time based upon facts gathered through non-SSI related discovery.

19. Once the Court makes initial materiality determinations of this sort, the TSA will prepare an SSI substitute. This substitute may consist of an appropriately redacted document containing SSI, a generic summary of SSI, and/or a declaration that supports certain material facts that relate to the particular SSI at issue. However, certain SSI may be so sensitive that the TSA will not authorize its disclosure in any form because any disclosure would be detrimental to the safety of passengers in transportation. In either case, the TSA may submit the SSI in question for review by the Court ex parte and in camera.

20. Should the Court disagree with the TSA's determination that disclosure would be detrimental to the safety of passengers in transportation, and order that the actual SSI must be disclosed, the TSA will either seek

appellate review of that order or establish a clearance procedure for a strictly limited group of attorneys and litigation support personnel. This clearance procedure will be substantially similar to the procedure used to conduct background investigations for employees of TSA-regulated entities, as well as TSA employees, who require access to secured areas within airports. Assuming full cooperation by plaintiffs' counsel, this process should only take several weeks to complete. The Court need not be concerned that the clearance procedure will delay the litigation for several months.

21. During this clearance process, the TSA will establish procedures for the storage, handling, and processing of relevant SSI and procedures by which cleared individuals may review it. These procedures may rely in part upon the entry of appropriate confidentiality and protective orders, and may require the creation of a secure SSI "reading room" located either at the courthouse or at a TSA facility.

22. Finally, in order for any party in the September 11 Tort Litigation to use SSI at trial, the Court would need to implement appropriate procedures for closing the courtroom to the public when SSI is presented as evidence. Other federal courts have previously used such procedures in both civil and

criminal proceedings involving SSI.

Pursuant to 28 U.S.C. § 1746, I declare that the foregoing is true and correct to the best of my knowledge and belief.

Executed on the 12<sup>th</sup> day  
of September, 2002.

  
\_\_\_\_\_  
STEPHEN J. MCHALE  
Deputy Under Secretary  
Transportation Security Administration  
United States Department of Transportation



**Transportation  
Security  
Administration**

**Final Order on Requests for Conditional Disclosure of SSI**

**I. Requests for Conditional Disclosure**

- A. Counsel for the plaintiffs and the cross-claim plaintiffs in In Re September 11 Litigation, 21 MC 97 (S.D.N.Y.), and In Re September 11 Property Damage and Business Loss Litigation, 21 MC 101 (S.D.N.Y.) (collectively "September 11 Actions") (hereinafter "Plaintiff Requesters"), request access to Sensitive Security Information ("SSI") contained in documents that are responsive to discovery requests served in the litigation. See Letters from plaintiffs' liaison counsel (Nov. 3, 2005) (hereinafter "Plaintiffs' Letter") and cross-claim plaintiffs (Dec. 8, 2005), attached at Tab A.
- B. Counsel for certain defendants in the September 11 Actions (hereinafter "Defendant Requesters") request authorization to disclose to counsel for the plaintiffs, to counsel for other defendants, to certain fact and expert witnesses, and to others, specific documents that constitute SSI that they plan to use in their litigation defense. See Letters from American Airlines (Dec. 12, 2005), Globe Aviation Services Corp. (Dec. 13, 2005), Huntleigh USA Corp. (Dec. 13, 2005), Argenbright Security (Dec. 14, 2005), The Boeing Company (Dec. 15, 2005), U.S. Airways (Dec. 15, 2005), and Colgan Air (Dec. 15, 2005), attached at Tab B.

**II. Standard for Determination**

Whether the disclosure of the requested SSI, subject to the proposed conditions, "would not be detrimental to transportation security." 49 C.F.R. § 1520.15(e).

**III. Statutory and Regulatory Background**

In furtherance of a congressional mandate to "prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out [civil aviation] security . . . if the [TSA Administrator] decides that disclosing the information would . . . be detrimental to the security of transportation," see 49 U.S.C. § 114(s)(1)(c), TSA regulations prescribe the maintenance, safeguarding, and disclosure of SSI. See 49 C.F.R. Part 1520. SSI, by definition, is "information obtained or developed in the conduct of security activities, including research and development, the disclosure of

which TSA has determined would . . . be detrimental to the security of transportation.” 49 C.F.R. § 1520.5(a)(3).

Access to SSI is strictly limited to those persons with a need to know, as defined in 49 C.F.R. § 1520.11, and to those persons to whom TSA authorizes disclosure under 49 C.F.R. § 1520.15. In general, a person has a need to know specific SSI when he or she requires access to the information: (1) to carry out transportation security activities that are government-approved, -accepted, -funded, -recommended, or -directed, including for purposes of training on, and supervision of, such activities; (2) to provide legal or technical advice to airport operators, air carriers or their employees regarding security-related requirements; or (3) to represent airport operators, air carriers or their employees in judicial or administrative proceedings regarding security-related requirements. 49 C.F.R. § 1520.11(a). Members of the public, including civil litigants, their attorneys, and their expert witnesses, do not have a regulatory need to know, unless they fall into the categories noted above. 49 C.F.R. §§ 1520.11, 1520.15(a).

TSA may authorize a conditional disclosure of specific SSI to a person who does not otherwise have a regulatory need to know “upon written determination by TSA that disclosure of such records or information . . . would not be detrimental to transportation security.” 49 C.F.R. § 1520.15(e). TSA also grants access to prescribed groups of persons without a regulatory need to know, including members of Congress and persons who require access to specific SSI in order to respond to enforcement actions brought by the agency. 49 C.F.R. § 1520.15(c), (d).

#### **IV. Request Specifics and Supporting Bases**

The Plaintiff Requesters seek access to SSI – both in documents and in deposition testimony – for a “small group of attorneys in the September 11 Actions and their agents,” subject to appropriate background checks and protective orders. See Plaintiffs’ Letter at 2. In support of this request, the Plaintiff Requesters state that this proposal will “protect[] against any legitimate concern that TSA may have with respect to SSI,” and that it is “consistent with the historical practice and procedure employed not only in cases involving SSI, but even in cases involving highly classified documents.” Plaintiffs’ Letter at 3.

Similarly, the Defendant Requesters request that TSA permit disclosure to designated counsel for plaintiffs and defendants and to certain fact and expert witnesses of the following documents and categories of documents:

- The complete Air Carrier Standard Security Program with all appendices and exhibits, in effect as of September 11, 2001, for operations at Logan International Airport, Dulles International Airport, and Newark International Airport.
- All Security Directives issued by the Federal Aviation Administration (“FAA”) for the period January 1, 1996, through September 11, 2001.

- The complete Checkpoint Operations Guide, with exhibits and appendices thereto, in use as of September 11, 2001.
- All Information Circulars issued by the FAA for the period January 1, 1996, through September 11, 2001.

See American letter at 1-3; Globe letter at 1-2; Argenbright letter at 1-2; U.S. Airways letter at 1; Colgan letter at 1-2.; Huntleigh letter at 1-2.<sup>1</sup>

In support, the Defendant Requesters argue that an exception to the regulatory bar on SSI is justified by what they consider to be the exigencies of the litigation, including: (1) the national importance of the September 11 Actions, which involve approximately 100 wrongful death and personal injury actions and numerous property damage claims aggregating to many billions of dollars in alleged losses; (2) the high relative importance of the documents to the fair adjudication and joint defense of the litigation; and (3) the allegation that the documents are no longer in force and “have been superseded since September 11, 2001, by substantially modified requirements.” See American letter at 3; Globe letter at 2-3; Argenbright letter at 2-3; Huntleigh letter at 2-3.

## V. Analysis

Since its inception in the wake of the devastating attacks of September 11, 2001, TSA has placed stringent protections on SSI, as the agency has determined that it is in the best interests of the public to restrict, to the greatest extent possible, the dissemination of any information that could be used to thwart security countermeasures by those intent upon committing criminal acts against civil aviation. Since September 11, 2001, it has been the consistent policy of TSA that the present and continuing threat of terrorist attacks against aviation interests requires that the number of persons having access to SSI be significantly and continually decreased, rather than increased. TSA initially reached this conclusion in significant part because intelligence reports indicated that al-Qa’ida operatives have, through media sources and other publicly available research, obtained access to information concerning existing security vulnerabilities at American airports.

Current intelligence information indicates that the terrorist threat against civil transportation targets continues to be a grave and ongoing concern. Reports indicate that al-Qa’ida and other terrorist operatives continue to develop plans for catastrophic attacks against targets in the United States and against United States’ interests overseas. Intelligence information demonstrates that terrorists actively seek to discover security methods and vulnerabilities they can exploit in planning future attacks against civil aviation.

This intelligence information is supported by the recent audiotape warnings issued by Usama Bin Ladin and Ayman Al-Zawahiri in January 2006, the deadly attacks carried

---

<sup>1</sup> Not all defendants requested disclosure of all listed documents. This list encompasses the total documents requested by any and all defendants. The specific requests are identified in the attached letters.

out on the London subway and bus lines in July 2005, the Madrid subway bombings in March 2004, and the very real possibility of future (as yet undiscovered) plans for attacks on the United States.

TSA must assess the security risks inherent in granting the requested conditional disclosure by also considering the risk of granting all similar requests in all civil litigation involving SSI. SSI is at issue in dozens of civil lawsuits at any given time, including in lawsuits alleging discriminatory application of security requirements, employment actions, patent infringement, and personal injury. In each of these lawsuits, there is at least one attorney who seeks access to SSI for purposes of pursuing the litigation, and often there are multiple attorneys who, as here, request access for themselves and for additional consultants. If access in civil litigation is provided, the number of persons with access to SSI necessarily multiplies with each new lawsuit filed, and the likelihood of inadvertent or intentional release or other misuse of SSI grows exponentially. Importantly, TSA also cannot rule out the possibility that terrorists might seek access to SSI by filing frivolous lawsuits and pursuing discovery, or that civil litigants might disclose SSI to terrorists. The agency cannot make meaningful security distinctions between civil litigants and has been unwilling to favor certain litigants over others based on the perceived importance of any particular litigation. Accordingly, consistent with its goal to reduce significantly the number of persons with access to SSI, since September 11, 2001, TSA has denied all requests to see SSI by civil litigants and/or their attorneys who do not otherwise have a need to know, as defined in 49 C.F.R. Part 1520.

In applying its non-disclosure policy to the instant Requests, TSA has considered both the unique nature of the September 11 Actions and the importance of particular SSI documents to the adjudication of the litigation. The agency is sensitive to the impact this determination will have on the litigation, but the security risks involved are too great to permit an exception to the non-disclosure policy. This is particularly true given the enormous breadth of SSI at issue and the expansive scope of the security measures contained therein, which cover nearly all aspects of aviation security. TSA's review of this information has revealed that while some aspects of the security programs have been superseded by new measures, the substantial majority are still in effect, or have been modified only subtly, and thus their release today would compromise transportation security. This determination is based, in part, on the knowledge that the disclosure of even small pieces of seemingly innocuous information could be used by terrorists to construct a mosaic that can be analyzed and synthesized to reveal existing security measures and vulnerabilities.

In an attempt to minimize the impact of its SSI policy on the litigation, agency security experts carefully reviewed each of more than 20,000 submitted pages of documents to ensure that only the absolute minimum of information has been withheld, providing partially redacted copies wherever possible. This review paid particular attention to identifying any information that no longer needs to be protected, and all such information has been released.

TSA has carefully considered less restrictive alternatives to its non-disclosure policy and has given particular thought to the suggestion of a limited disclosure of SSI in this litigation to those attorneys who have undergone a clearance procedure. The agency

is mindful that its non-disclosure policy is a change from what Plaintiff Requesters refer to as "the historical practice and procedure" for cases involving SSI, in that prior to September 11, 2001, the FAA on occasion authorized air carrier counsel to provide SSI to opposing counsel in civil litigation pursuant to a protective order. However, in the current threat environment, extending SSI access to persons who need access to it only for civil litigation purposes cannot be justified, and it is my judgment that disclosure, even under controlled conditions, presents a risk to transportation security. This determination is consistent with the position TSA has expressed repeatedly throughout this litigation and has taken in all other civil litigation nationwide since September 11, 2001.

#### VI. Determination

After having considered each argument made by the Requesters, I deny the instant requests for conditional disclosure of SSI under 49 C.F.R. § 1520.15(e), as I do not find that such disclosure "would not be detrimental to transportation security."

This Order is issued under 49 U.S.C. § 114(s) and is final. Pursuant to 49 U.S.C. § 46110, any person disclosing a substantial interest in this Order may, within 60 days of its issuance, apply for review by filing a petition for review in an appropriate U.S. Court of Appeals.

Date: FEB 07 2006

ES  
Edmund S. Hawley  
Administrator

**A**

GREGORY P. JOSEPH LAW OFFICES LLC

805 THIRD AVENUE  
NEW YORK, NEW YORK 10022  
(212) 407-1200  
WWW.JOSEPHNYC.COM

GREGORY P. JOSEPH  
DIRECT DIAL: (212) 407-1210  
Direct Fax: (212) 407-1280  
EMAIL: [gjoseph@josephnyc.com](mailto:gjoseph@josephnyc.com)

FACSIMILE  
(212) 407-1200

November 3, 2005

**Via Electronic Mail**

Sarah S. Normand, Esq.  
Beth E. Goldman, Esq.  
Assistant U.S. Attorneys  
U.S. Department of Justice  
86 Chambers Street, Third Floor  
New York, New York 10007

**Re: In Re September 11 Litigation, 21 MC 97 (AKH); In re September 11  
Property Damage and Business Loss Litigation, 21 MC 101 (AKH)**

Dear Sarah and Beth:

We are writing in accordance with paragraphs 7(a) and (b) of Judge Hellerstein's September 29, 2005 Supplemental Case Management Order in 21 MC 97 and 21 MC 101 (the "September 11 Actions"). As you are aware, plaintiffs in the September 11 Actions served discovery requests nearly three years ago and consented to a sample procedure by which the Transportation Security Administration would review documents responsive to these requests for Sensitive Security Information ("SSI"). The Court and parties in the September 11 Actions have patiently awaited the TSA's review, and we are not insensitive to the difficult task that the TSA continues to perform. Nevertheless, the current system is not working and all parties, including the Court, are in need of a remedy. Further to your discussions with members of the PD/BL Plaintiffs' Executive Committee, this letter sets forth a proposed protocol to be employed on a going-forward basis as discovery progresses in these cases. This letter is sent on behalf of the PD/BL Plaintiffs' Executive Committee, the PI/WD Plaintiffs' Executive Committee, and the Ground Defendants' Liaison Counsel in the September 11 Actions; we understand that the Aviation Defendants' Liaison Counsel will be forwarding a letter to you under separate cover.

GREGORY P. JOSEPH LAW OFFICES LLC

Sarah S. Normand, Esq.  
Beth E. Goldman, Esq.  
November 3, 2005  
Page 2

We propose that TSA agree to a procedure whereby a limited group of cleared individuals would be given access to documents containing SSI and conduct sealed depositions pursuant to a strict confidentiality order to be entered by Judge Hellerstein. As you are aware, a similar procedure was suggested by TSA itself, with certain qualifications, in the September 2002 declaration of TSA Deputy Under Secretary Stephen J. McHale. It was only after a number of attorneys had obtained the required SSI clearance that the TSA completely reversed its position – a reversal which, unfortunately, has given rise to the difficulties encountered by not only the parties and the Court, but, we suspect, to significant burdens on the TSA itself (in that nearly every document in these litigations, no matter how limited their actual relevance, must be reviewed by TSA prior to disclosure).

We therefore request that TSA consent to the following protocol:

1. A small group of attorneys in the September 11 Actions and their agents, identified by name, will be given the necessary clearance to view potential SSI materials, subject to any appropriate background checks.
2. Cleared persons will be permitted to view potential SSI information and to conduct or be present at depositions where potential SSI information will be disclosed.
3. The parties to the September 11 Actions and TSA will jointly agree on a procedure and timeline whereby the parties will designate any documents or deposition testimony containing potential SSI information that may be used in a court proceeding or filing. The TSA will review such documents and deposition testimony and render a final SSI determination that may then be appealed by any objecting party.
4. The parties and the TSA will jointly present Judge Hellerstein with a proposed order outlining the terms of such a protocol and containing strict confidentiality protections that will, among other things, prevent public disclosure of SSI materials, provide a procedure for conducting SSI-related depositions and filing SSI-related documents under seal,

GREGORY P. JOSEPH LAW OFFICES LLC

Sarah S. Normand, Esq.  
Beth E. Goldman, Esq.  
November 3, 2005  
Page 3

and provide for closed court sessions when SSI materials are to be discussed.

We believe that this proposal will allow the September 11 Actions to progress in an efficient manner, while at the same time protecting against any legitimate concern that TSA may have with respect to SSI. This proposal is neither radical nor unusual. Indeed, it is consistent with the historical practice and procedure employed not only in cases involving SSI, but even in cases involving highly classified documents, the disclosure of which poses a far greater danger to national security. Given the significant public interests involved in facilitating the prompt and efficient resolution of the September 11 Actions, it is our sincere hope that TSA will reconsider its revised position.

In the event that TSA is unwilling or unable to agree to our proposal, however, we request that TSA issue a final decision with respect to all SSI designations made in the September 11 Actions to date. Further, so that the Court of Appeals can have some basis upon which to gauge the appropriateness of TSA's designations under governing law, we propose that TSA specifically identify each document or portion of each document that it has deemed constitutes SSI, and provide a brief explanation of the basis for the designation. We also request that TSA issue a final decision (a) confirming TSA's refusal to allow persons with SSI security clearance to view all potential SSI material before TSA has reviewed such material and made its SSI designations, and (b) confirming TSA's decision not to permit attorneys with SSI security clearance to participate fully in depositions and other proceedings where SSI information is to be disclosed.

We request that TSA issue these determinations within 45 days. They shall be considered final orders for purposes of appeal by any party in 21 MC 97 or 21 MC 101. Pursuant to paragraph 2(a) of Judge Hellerstein's Supplemental Case Management Order in the September 11 Actions, Plaintiffs' Master Discovery (First Set) served in 21 MC 97 has been deemed served in 21 MC 101, and all documents produced in 21 MC 97 have been deemed produced in 21 MC 101.

The Court's Order requires that we conduct a meet and confer to discuss these matters and submit a joint letter to the Court on or before November 4, 2005. We

GREGORY P. JOSEPH LAW OFFICES LLC

Sarah S. Normand, Esq.  
Beth E. Goldman, Esq.  
November 3, 2005  
Page 4

understand that TSA has requested an extension of this deadline until December 5, 2005 and do not object to this extension.

Please contact us at your earliest convenience in order to schedule a date and time to convene a conference call with all interested parties.

Again, it is our sincere hope that we can reach an accord on an appropriate protocol to govern these cases. If we cannot, then we believe it is time for all parties to have the benefit of the Court of Appeals' views on TSA's SSI designations to date.

We appreciate your time and look forward to your response.

Sincerely,

*GSJ*  
Gregory P. Joseph  
Member, PD/BL Plaintiffs'  
Executive Committee

*MSM*  
Marc S. Molier  
PI/WD Plaintiffs' Liaison Counsel

cc:

Robert A. Clifford  
PD/BL Plaintiffs' Liaison Counsel

Desmond T. Barry, Jr.  
Aviation Defendants' Liaison Counsel

Richard A. Williamson  
Ground Defendants' Liaison Counsel

FLEMMING ZULACK WILLIAMSON ZAUDERER LLP

LAW OFFICES  
ONE LIBERTY PLAZA  
NEW YORK, NEW YORK  
10006-1404  
(212) 412-9500  
FAX (212) 964-9200

December 8, 2005

By E-mail

RICHARD A. WILLIAMSON

Beth E. Goldman, Esq.  
Sarah S. Normand, Esq.  
Assistant United States Attorneys  
U.S. Department of Justice  
Southern District of New York  
86 Chambers Street, Third Floor  
New York, N.Y. 10007

Re: In re September 11 Litigation, 21 MC 97 (AKH);  
In Re September 11 Property Damage and  
Business Loss Litigation, 21 MC 101 (AKH)

Dear Beth and Sarah:

We write in our capacity as counsel for cross-claim plaintiffs World Trade Center Properties LLC and related entities ("WTCP") in 21 MC 97 and counsel for defendants WTCP and The Port Authority of New York and New Jersey in 21 MC 101.

At the November 29, 2005 conference before Judge Alvin K. Hellerstein in these actions, you reported that the Transportation Safety Administration ("TSA") will soon issue a final order regarding the protocol for disclosure of potential Sensitive Security Information ("SSI") and that additional final orders relating to specific SSI designations will follow. As discussed at the conference, these orders will enable an appeal to the Second Circuit by any party wishing to do so. Although you noted at the conference that "there is no requirement that the parties make submissions," you invited the parties to make "to make any submissions either as to the requests for conditional disclosure of SSI or as to TSA's SSI designations in the first wave [by] no later than December 15," and said that the TSA will consider any such submissions.

WRITER'S DIRECT DIAL  
(212) 412-9530  
rwilliamson@fzw.com

Beth E. Goldman, Esq.  
Sarah S. Normand, Esq.  
U.S. Department of Justice  
December 8, 2005  
Page 2

Accordingly, we write to be on record as being in full support of and agreement with the positions stated by the PD/BL Plaintiffs' Executive Committee, the PI/WD Plaintiffs' Executive Committee and the Ground Defendants' Liaison Counsel in the November 3, 2005 letter from Gregory P. Joseph, Esq. and Marc S. Moller, Esq. to the two of you.

Sincerely,



Richard A. Williamson

cc: Marc S. Moller, Esq.  
PI/WD Plaintiffs' Liaison Counsel

Robert A. Clifford, Esq.  
PD/BL Plaintiffs' Liaison Counsel

Desmond T. Barry, Jr., Esq.  
Aviation Defendants' Liaison Counsel

All Ground Defendants' Counsel

---

**B**

CONDON & FORSYTH LLP

NEW YORK  
LOS ANGELES  
WASHINGTON, DC

Direct Dial: (212) 894-6770  
Direct Fax: (212) 894-6771  
dbarry@condonlaw.com

December 12, 2005

VIA EMAIL

Sarah Tauber, Esq.  
Office of the Chief Counsel  
Transportation Security Administration  
601 South 12th Street, TSA-2  
Arlington, Virginia 22202

Re: In re September 11 Tort Litigation  
21 MC 97 (SDNY) (AKH)  
In re September 11 Property Damage and Business Loss Litigation  
21 MC 101 (SDNY) (AKH)  
C & F Ref: DTB/CRC/28079

Dear Ms. Tauber:

Pursuant to the instructions set forth in the December 2, 2005 letter of Beth E. Goldman, Esq. (copy attached), we make this submission to the Transportation Security Administration ("TSA") on behalf of AMR Corporation and American Airlines, Inc. (collectively, "American") concerning the TSA's anticipated final orders in the above matters addressing plaintiffs' request for an exception to the regulatory restrictions against disclosure to those outside the "need to know" categories set forth in 49 CFR § 1520.11 and concerning Sensitive Security Information ("SSI") designations relating to so-called "first wave" documents. American respectfully requests that the TSA permit the disclosure, under appropriate safeguards and limitations as set forth below, of the following categories of first wave documents for use solely in connection with the above-captioned 9/11 litigation:

1. The complete Air Carrier Standard Security Program ("ACSSP"), with all appendices and exhibits, for American in effect as of September 11, 2001 for American's operations at Logan International Airport in Boston, Massachusetts, the point of origin of AA Flight 11, and Washington Dulles Metropolitan Airport, the point of origin of AA Flight 77. American Document Production Numbers AAL TSA 000001-000307.

CONDON & FORSYTH LLP

Sarah Tauber, Esq.  
December 12, 2005  
Page 2

2. All Security Directives issued by the FAA to American for the period January 1, 1996 through September 11, 2001. American Document Production Numbers AALTSA 000712-001123.
3. The complete Checkpoint Operations Guide ("COG"), with exhibits and appendices thereto, in use as of September 11, 2001. American Document Production Numbers AALTSA 001287-001402.
4. All Information Circulars issued by the FAA to American for the period January 1, 1996 through September 11, 2001. American Document Production Numbers AALTSA 001157-001286.

While American recognizes that TSA does not ordinarily interpret the proposed use of SSI in litigation as giving rise to a "need to know" within the meaning of Section 1520.11, American respectfully requests that TSA make an exception pursuant to Sections 1520.5(b) and 1520.15(e) for the above-listed categories of documents. Given the exigencies of this litigation, American believes that the requested limited exception for disclosure of this information is amply justified by the following circumstances:

A. The 9/11 litigation is a matter of considerable national importance that has been expressly authorized by Act of Congress. See, Air Transportation Safety and Systems Stabilization Act, Pub. L. No. 107-42, 115 Stat. 230 (2001) (the "Stabilization Act"). The 9/11 litigation involves approximately 100 wrongful death and personal injury actions and numerous property damage claims aggregating many billions of dollars in alleged losses.

B. The 9/11 litigation has at its core the adjudication of factual and legal issues concerning the structure and implementation of the nation's aviation security system as it existed on September 11, 2001, with a special focus on then-existing standards and procedures for checkpoint screening operations and inflight aviation security, including the so-called "Common Strategy" for dealing with attempted hijackings developed by the FAA and incorporated into the ACSSP.

C. Disclosure of the above categories of documents is essential to the fair adjudication of the 9/11 litigation. Failure to permit American to make use of the specified documents in its defense would be fundamentally unfair to American and violate its due process rights.

Sarah Tauber, Esq.  
December 12, 2005  
Page 3

D. The requested documents relate not merely to factual matters but set forth the legal standard of care to which American was required to conform its conduct in conducting aviation security operations as of September 11, 2001. Both the ACSSP and the Security Directives were binding regulations operating with the force of law upon American on September 11, 2001. The Information Circulars and COG were closely related documents adding a critically important interpretative gloss to the legal requirements embodied in the ACSSP and the Security Directives. It is difficult to envision how the 9/11 litigation can proceed at all unless American is permitted to introduce in its defense the documents that defined the standard of care with which it was required to comply.

E. The requested documents are no longer in force and have been superseded since September 11, 2001 by substantially modified requirements. Disclosure of these documents will thus shed little light on currently effective aviation security standards. Moreover, incomplete information concerning the content of these documents has already been made publicly available, particularly through the so-called Kean Commission Report and the associated Aviation Monograph and supplemental Staff Statements.

American's first priority is the safety of its customers and employees. Safety is the first and foremost consideration in any decision that American makes. Consequently, if TSA is willing to permit the use of the requested documents for purposes of the 9/11 litigation, American would welcome the opportunity to work with TSA to develop a protocol that would limit the disclosure of the documents and the information contained therein to the narrowest possible audience consistent with the needs for fair adjudication of the litigation, and to ensure to the greatest extent possible that no disclosure will be made to unauthorized persons. American believes that disclosure will be necessary to designated counsel for plaintiffs and defendants, to the Court and court personnel, to TSA-approved court reporters and to certain fact and expert witnesses. All such persons would be required to subscribe to confidentiality orders and to adopt specified procedures to avoid unauthorized use or disclosure of the documents or the information contained therein.

#### Discussion

American is mindful of the difficult task facing TSA in its unique role in this litigation and of the importance to aviation security of preventing unnecessary and unauthorized disclosure of SSI. Accordingly, American in this initial submission is limiting its request for disclosure of SSI documents to those directly pertinent to defining the legal standard of care under which it was operating on September 11, 2001.

Before the Stabilization Act, a substantial and growing body of precedent had concluded that FAA regulations preempt state common law standards and set forth the exclusive standard of

Sarah Tauber, Esq.  
December 12, 2005  
Page 4

care for tort claims relating to the subject matter of the regulations. See e.g., Abdullah v. American Airlines, Inc., 181 F.3d 363 (3d Cir. 1999); Curtin v. Port Auth., 183 F. Supp.2d 664 (S.D.N.Y. 2002); see also, In re Sept. 11 Litig., 280 F. Supp.2d 279, 297-298 (S.D.N.Y. 2003). This body of precedent is reinforced by Section 408(b)(2) of the Stabilization Act, which provides that the 9/11 claims are governed by the law of the state in which the crash occurred "*unless such law is inconsistent with or preempted by Federal law.*" Very similar language in the Price-Anderson Amendments Act consistently has been construed to mean that regulations issued by the Nuclear Energy Regulatory Commission preempt state common law and set forth the exclusive standard of care applicable to tort claims under the Act. See, e.g., O'Conner v. Commonwealth Edison Co., 13 F.3d 1090, 1104-1105 (7<sup>th</sup> Cir. 1994); See, e.g., Roberts v. Fla. Power & Light Co., 146 F.3d 1305, 1308 (11<sup>th</sup> Cir. 1998).

The ACSSP and the Security Directives were mandatory FAA requirements having the force of law that defined the security-related obligations of American on September 11, 2001. See, e.g., 14 CFR § 108.9(a) (2001); 14 CFR § 108.25 (2001); 66 Fed. Reg. 37330, 37339 (July 17, 2001); 49 C.F.R. § 1542.303 (2004). The Information Circulars were closely related documents that shed important light on how the ACSSP and the Security Directives were to be implemented. Thus, there can be little disagreement that the requested documents collectively set forth the standard of care with which American was required to comply on September 11, 2001.

Civil litigation sometimes can proceed fairly without the parties having access to certain evidence because of its privileged status, but no litigation can proceed if the applicable standard-setting legal principles cannot be disclosed to the court or to the trier of fact. It would be unfair and a denial of due process to subject American to trials seeking billions of dollars in damages without permitting it to present in its defense the legal standards that governed its conduct. Under far less compelling circumstances than those present here, courts have felt obliged to dismiss litigation where national security considerations precluded the disclosure even of factual information essential to the fair resolution of the dispute. See, e.g., Zuckerbraun v. Gen. Dynamics Corp., 935 F.2d 544 (2d Cir. 1991); Mounsey v. Allied Signal, Inc., CV-95-4309 (C.D. Cal. April 10, 2000); Bentzlin v. Hughes Aircraft Co., 883 F. Supp. 1486, 1496 (C.D. Cal. 1993).

At separate trials in the 9/11 litigation, juries will be asked to determine whether (as to liability) American and other defendants complied with applicable FAA regulations and faithfully implemented the FAA-mandated aviation security system and whether (as to proximate cause) any alleged failures of compliance played a causal role in the hijackings and their outcome. These questions cannot fairly be resolved without providing the parties and the triers of fact access to the actual contents of information from the ACSSP, the COG, the Security Directives and the Information Circulars. Even portions of these documents (such as those relating to

---

CONDON & FORSYTH LLP

Sarah Tauber, Esq.  
December 12, 2005  
Page 5

standards for screening for explosives in checked baggage) that may not at first blush appear to be implicated by the events of 9/11 may nonetheless have an important bearing on the outcome of the litigation by demonstrating that such explosives were the primary threat perceived by the federal aviation security system on September 11, 2001.

American appreciates TSA's efforts to prepare SSI substitutes and has carefully reviewed the proposed substitutes. These substitutes, however, are too general in nature, and too lacking in detail and nuance, to permit American to present a full and fair defense. Moreover, a substitute by its very nature does not completely and accurately reveal the contents of the original.

An important illustration of the shortcomings of the SSI substitutes involves one of the major issues in the 9/11 litigation, e.g., whether walkthrough metal detectors were so calibrated that checkpoint screening should have detected the short-bladed knives allegedly carried by the hijackers. The actual ACSSP sets forth in detail the calibration standards for the detectors. Yet the proposed substitute SSI provides no information on this issue, stating merely:

For each detection device used by the air carrier, an initial test will be conducted by the FAA to establish the minimum setting at which that device shall be operated. (p. 17)

Indeed, the SSI substitute is substantially less informative than other publicly available material. Both page 2 of the 9/11 Commission Report and page 77 of the 9/11 Commission Aviation Monograph reveal that walkthrough metal detectors had to be calibrated to detect items with the metal content of a .22 caliber handgun rather than a short-bladed knife.

Another important issue in the 9/11 litigation is to what extent screeners were required to search for short-bladed knives before September 11, 2001. The ACSSP and the COG set forth these requirements in detail and specifically list the test weapons against which screeners and screening equipment were to be evaluated. Yet the proposed substitute SSI provides no information as to checkpoint test items used prior to September 11, 2001. In contrast, page 74 of the Aviation Monograph states that "prior to 9/11, checkpoints were not tested for their ability to detect knives, because short knives were not FAA-approved test items."

The problems with SSI substitutes will be exacerbated in the deposition process. Witnesses with knowledge of checkpoint screening procedures and the Common Strategy will be asked numerous questions calling for disclosure of information from the ACSSP, the COG, the Security Directives and the Information Circulars. If they are restricted to disclosing only that information contained in the SSI substitutes, their answers will be incomplete and misleading. In

CONDON & FORSYTH LLP

Sarah Tauber, Esq.  
December 12, 2005  
Page 6

essence, the witnesses would be instructed to testify to the truth but not the whole truth. It is hard to imagine that civil litigation can result in a fair adjudication under such constraints.

Accordingly, American respectfully requests that TSA permit the disclosure and use in this litigation, under appropriate safeguards and limitations, of the categories of documents set forth in items 1 through 4 above.

Respectfully submitted,

CONDON & FORSYTH LLP

By           /5/            
Desmond T. Barry, Jr.

DEBEVOISE & PLIMPTON LLP

By           /5/            
Roger E. Podesta

Counsel for AMR Corporation and  
American Airlines, Inc.

cc: The Honorable Alvin K. Hellerstein  
Beth E. Goldman, Esq.  
Sarah S. Normand, Esq.  
Jeannette A. Vargas, Esq.  
All Liaison Counsel

**JONES HIRSCH CONNORS & BULL P.C.**  
**ONE BATTERY PARK PLAZA**  
**NEW YORK, NEW YORK 10004**

NEW YORK

CALIFORNIA

WRITER'S EMAIL

TELEPHONE: (212) 527-1000  
FACSIMILE (212) 527-1680

CONNECTICUT

NEW JERSEY

WRITER'S DIRECT  
DIAL NUMBER

[jconnors@hcb.com](mailto:jconnors@hcb.com)

December 13, 2005

(212) 527-1350

Sarah Tauber, Esq.  
Transportation Security Administration  
601 South 12<sup>th</sup> Street, TSA-2  
Arlington, VA 22202

Re: In re September 11 Litigation  
21 MC 97 (SDNY) (AKH)  
In re September 11 Property Damage  
and Business Loss Litigation  
21 MC 101 (SDNY) (AKH)  
JHC&B File No.: 02315-12111

Dear Ms. Tauber:

Pursuant to the instructions set forth in the December 2, 2005 letter of Beth E. Goldman, Esq. (copy attached), we make this submission to the Transportation Security Administration ("TSA") on behalf of Globe Aviation Services Corporation (hereinafter, "Globe") concerning the TSA's anticipated final orders in the above matters addressing plaintiffs' request for an exception to the regulatory restrictions against disclosure to those outside the "need to know" categories set forth in 49 CFR § 1520.11 and concerning Sensitive Security Information ("SSI") designations relating to so-called "first wave" documents. Globe respectfully requests that the TSA permit the disclosure, under appropriate safeguards and limitations as set forth below, of the following categories of first wave documents for use solely in connection with the above-captioned 9/11 litigation:

1. The complete Air Carrier Standard Security Program ("ACSSP"), with all appendices and exhibits, in effect

as of September 11, 2001 for American Airlines' operations at Logan International Airport in Boston, Massachusetts, the point of origin of American Airlines Flight 11. Globe Document Production Numbers GLB-A-00000541-00000811.

2. The complete Checkpoint Operations Guide ("COG"), with exhibits and appendices thereto, in use as of September 11, 2001. Globe Document Production Numbers GLB-A-00000419-00000540.

While Globe recognizes that TSA does not ordinarily interpret the proposed use of SSI in litigation as giving rise to a "need to know" within the meaning of Section 1520.15, Globe respectfully requests that TSA make an exception pursuant to Sections 1520.5(b) and 1520.15(e) for the above-listed categories of documents. Given the exigencies of this litigation, Globe believes that the requested limited exception for disclosure of this information is amply justified by the following circumstances:

A. The 9/11 litigation is a matter of considerable national importance that has been expressly authorized by Act of Congress. See, Air Transportation Safety and Systems Stabilization Act, Pub. L. No. 107-42, 115 Stat. 230 (2001) (the "Stabilization Act"). The 9/11 litigation involves approximately 100 wrongful death and personal injury actions and numerous property damage claims aggregating many billions of dollars in alleged losses.

B. The 9/11 litigation has at its core the adjudication of factual and legal issues concerning the structure and implementation of the nation's aviation security system as it existed on September 11, 2001, with a special focus on then-existing standards and procedures for checkpoint screening operations and inflight aviation security, including the so-called "Common Strategy" for dealing with attempted hijackings developed by the FAA and incorporated into the ACSSP.

C. Disclosure of the above categories of documents is essential to the fair adjudication of the 9/11 litigation. Failure to permit Globe to make use of the specified documents in its defense would be fundamentally unfair to Globe and violate its due process rights.

D. The requested documents relate not merely to factual matters but set forth the legal standard of care to which Globe

was required to conform its conduct in conducting aviation security operations as of September 11, 2001. The ACSSP was a binding regulation operating with the force of law upon Globe on September 11, 2001. The COG was a closely related document adding a critically important interpretative gloss to the legal requirements embodied in the ACSSP. It is difficult to envision how the 9/11 litigation can proceed at all unless Globe is permitted to introduce in its defense the documents that defined the standard of care with which it was required to comply.

E. The requested documents are no longer in force and have been superseded since September 11, 2001 by substantially modified requirements. Disclosure of these documents will thus shed little light on currently effective aviation security standards. Moreover, incomplete information concerning the content of these documents has already been made publicly available, particularly through the so-called Kean Commission Report and the associated Aviation Monograph and supplemental Staff Statements.

F. We also make this request so that the defendants can have access to each other's SSI material. As you know, the defendants in this litigation have defenses common to all of them. These common defenses in large part rely on the requested documents. In order for the defendants to conduct a joint defense, it is imperative that the defendants be able to have access to the requested documents. Such access is not permissible absent the TSA's acquiescence and compliance with this request.

Globe's first priority is the safety of airline passengers. Safety is the first and foremost consideration in any decision that Globe makes and it is the foundation of Globe's success. Consequently, if TSA is willing to permit the use of the requested documents for purposes of the 9/11 litigation, Globe would welcome the opportunity to work with TSA to develop a protocol that would limit the disclosure of the documents and the information contained therein to the narrowest possible audience consistent with the needs for fair adjudication of the litigation, and to ensure to the greatest extent possible that no disclosure will be made to unauthorized persons. Globe believes that disclosure will be necessary to designated counsel for plaintiffs and defendants, to the Court and court personnel, to TSA-approved court reporters and to certain fact and expert witnesses. All such persons would be required to subscribe to confidentiality orders and to adopt specified procedures to avoid unauthorized use or disclosure of the documents or the

information contained therein.

#### Discussion

Globe is mindful of the difficult task facing TSA in its unique role in this litigation and of the importance to aviation security of preventing unnecessary and unauthorized disclosure of SSI. Accordingly, Globe in this initial submission is limiting its request for disclosure of SSI documents to those directly pertinent to defining the legal standard of care under which it was operating on September 11, 2001.

Before the Stabilization Act, a substantial and growing body of precedent had concluded that FAA regulations preempt state common law standards and set forth the exclusive standard of care for tort claims relating to the subject matter of the regulations. See e.g., Abdullah v. American Airlines, Inc., 181 F.2d 363 (3d Cir. 1999); Curtin v. Port Auth., 183 F. Supp.2d 664 (S.D.N.Y. 2002); see also, In re Sept. 11 Litig., 280 F. Supp.2d 279, 297-298 (S.D.N.Y. 2003). This body of precedent is reinforced by Section 408(b)(2) of the Stabilization Act, which provides that the 9/11 claims are governed by the law of the state in which the crash occurred "unless such law is inconsistent with or preempted by Federal law." Very similar language in the Price-Anderson Amendments Act consistently has been construed to mean that regulations issued by the Nuclear Energy Regulatory Commission preempt state common law and set forth the exclusive standard of care applicable to tort claims under the Act. See, e.g., O'Conner v. Commonwealth Edison Co., 13 F.3d 1090, 1104-1105 (7th Cir. 1994); See, e.g., Roberts v. Fla. Power & Light Co., 146 F.3d 1305, 1308 (11th Cir. 1998).

The ACSSP was a mandatory FAA requirement having the force of law that defined the security-related obligations and set forth the standard of care with which Globe was required to comply on September 11, 2001. See, e.g., 14 CFR § 108.9(a) (2001); 14 CFR § 108.25 (2001); 66 Fed. Reg. 37330, 37339 (July 17, 2001); 49 C.F.R. § 1542.303 (2004). The Information Circulars were closely related documents that shed important light on how the ACSSP and the Security Directives were to be implemented. Thus, there can be little disagreement that the requested documents collectively set forth the standard of care with which Globe was required to comply on September 11, 2001.

Civil litigation sometimes can proceed fairly without the parties having access to certain evidence because of its privileged status, but no litigation can proceed if the

applicable standard-setting legal principles cannot be disclosed to the court or to the trier of fact. It would be unfair and a denial of due process to subject Globe to trials seeking billions of dollars in damages without permitting it to present in its defense the legal standards that governed its conduct. Under far less compelling circumstances than those present here, courts have felt obliged to dismiss litigation where national security considerations precluded the disclosure even of factual information essential to the fair resolution of the dispute. See, e.g., Zuckerbraun v. Gen. Dynamics Corp., 935 F.2d 544 (2d Cir. 1991); Mounsey v. Allied Signal, Inc., CV-95-4309 (C.D. Cal. April 10, 2000); Bentzlin v. Hughes Aircraft Co. 1486, 1496 (C.D. Cal. 1993).

At separate trials in the 9/11 litigation, juries will be asked to determine whether (as to liability) Globe and other defendants complied with applicable FAA regulations and faithfully implemented the FAA-mandated aviation security system and whether (as to proximate cause) any alleged failures of compliance played a causal role in the hijackings and their outcome. These questions cannot fairly be resolved without providing the parties and the triers of fact access to the actual contents of information from the ACSSP, the COG, relevant Security Directives and Information Circulars. Even portions of these documents (such as those relating to standards for screening for explosives in checked baggage) that may not at first blush appear to be implicated by the events of 9/11 may nonetheless have an important bearing on the outcome of the litigation by demonstrating that such explosives were the primary threat perceived by the federal aviation security system on September 11, 2001.

Globe appreciates TSA's efforts to prepare SSI substitutes and has carefully reviewed the proposed substitutes. These substitutes, however, are too general in nature, and too lacking in detail and nuance, to permit Globe to present a full and fair defense. Moreover, a substitute by its very nature does not completely and accurately reveal the contents of the original.

An important illustration of the shortcomings of the SSI substitutes involves one of the major issues in the 9/11 litigation, e.g., whether walkthrough metal detectors were so calibrated that checkpoint screening should have detected the short-bladed knives allegedly carried by the hijackers. The actual ACSSP sets forth in detail the calibration standards for the detectors. Yet the proposed substitute SSI provides no information on this issue, stating merely:

For each detection device used by the air carrier, an initial test will be conducted by the FAA to establish the minimum setting at which that device shall be operated. (p. 17)

Indeed, the SSI substitute is substantially less informative than other publicly available material. Both page 2 of the 9/11 Commission Report and page 77 of the 9/11 Commission Aviation Monograph reveal that walkthrough metal detectors had to be calibrated to detect items with the metal content of a .22 caliber handgun rather than a short-bladed knife.

Another important issue in the 9/11 litigation is to what extent screeners were required to search for short-bladed knives before September 11, 2001. The ACSSP and the COG set forth these requirements in detail and specifically list the test weapons against which screeners and screening equipment were to be evaluated. Yet the proposed substitute SSI provides no information as to checkpoint test items used prior to September 11, 2001. In contrast, page 74 of the Aviation Monograph states that "prior to 9/11, checkpoints were not tested for their ability to detect knives, because short knives were not FAA-approved test items."

The problems with SSI substitutes will be exacerbated in the deposition process. Witnesses with knowledge of checkpoint screening procedures and the Common Strategy will be asked numerous questions calling for disclosure of information from the ACSSP and the COG. If they are restricted to disclosing only that information contained in the SSI substitutes, their answers will be incomplete and misleading. In essence, the witnesses would be instructed to testify to the truth but not the whole truth. It is hard to imagine that civil litigation can result in a fair adjudication under such constraints.

Accordingly, Globe respectfully requests that TSA permit the disclosure and use in this litigation, under appropriate safeguards and limitations, of the categories of documents set forth in items 1 and 2 above.

Sarah Tauber, Esq.

-7-

December 13, 2005

Respectfully submitted,  
JONES HIRSCH CONNORS & BULL P.C.

By           /JS/            
James P. Connors

and

LORD, BISSELL & BROOK LLP  
Gary Westerberg, Esq.

Counsel for Globe Aviation Services  
Corporation

cc: The Honorable Alvin K. Hellerstein  
Beth E. Goldman, Esq.  
Sarah S. Normand, Esq.  
Jeannette A. Vargas, Esq.  
All Liaison Counsel

SUSMAN GODFREY L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP  
SUITE 5100  
1000 LOUISIANA  
HOUSTON, TEXAS 77002-5096  
(713) 651-9366  
FAX (713) 654-6666  
WWW.SUSMANGODFREY.COM

SUITE 950  
1901 AVENUE OF THE STARS  
LOS ANGELES, CALIFORNIA 90067-6029  
(310) 789-3100

JONATHAN J. ROSS  
DIRECT DIAL (713) 653-7813

SUITE 5100  
901 MAIN STREET  
DALLAS, TEXAS 75202-3775  
(214) 754-1900

SUITE 3800  
1201 THIRD AVENUE  
SEATTLE, WASHINGTON 98101-3000  
(206) 516-3880

DIRECT DIAL FAX (713) 654-3300  
E-MAIL JROSS@SUSMANGODFREY.COM

December 13, 2005

**BY FIRST-CLASS MAIL**

Sarah Tauber, Esq.  
Transportation Security Administration  
601 South 12<sup>th</sup> Street, TSA-2  
Arlington, Virginia 22202

Re: In re September 11 Tort Litigation  
21 MC 97 (SDNY) (AKH)  
In re September 11 Property Damage and Business Loss Litigation  
21 MC 101 (SDNY) (AKH)  
C & F Ref: DTB/CRC/28079

Dear Ms. Tauber:

Pursuant to the instructions set forth in the December 2, 2005, letter of Beth E. Goldman, Esq. (copy attached), we make this submission to the Transportation Security Administration ("TSA") on behalf of Huntleigh USA Corporation ("Huntleigh") concerning the TSA's anticipated final orders in the above matters addressing plaintiffs' request for an exception to the regulatory restrictions against disclosure to those outside the "need to know" categories set forth in 49 CFR 1520.15 and concerning Sensitive Security Information ("SSI") designations relating to so-called "first wave" documents. Huntleigh respectfully requests that the TSA permit the disclosure, under appropriate safeguards and limitations as set forth below, of the following categories of first wave documents for use solely in connection with the above-captioned 9/11 litigation:

1. The complete Air Carrier Standard Security Program ("ACSSP"), with all appendices and exhibits, for United Airlines in effect as of

September 11, 2002, for United's operations at Logan International Airport in Boston, Massachusetts, the point of origin of United Flight 175. Huntleigh Document Production Numbers H030426-030707 and H038838-039091.

2. Security Directives and Information Circulars issued by the FAA for the period January 1, 1996, through September 11, 2001. Huntleigh Document Production Numbers H031859-031873, H032053-032058, H038338-038344, H046073-046075, H065765-069821.
3. The complete Checkpoint Operations Guide ("COG"), with exhibits and appendices thereto, in use as of September 11, 2001. Huntleigh Document Production Numbers H030305-030425, H070741-070863.

While Huntleigh recognizes that TSA does not ordinarily interpret the proposed use of SSI in litigation as giving rise to a "need to know" within the meaning of Section 1520.15, Huntleigh respectfully requests that TSA make an exception pursuant to Sections 1520.5(b) and 1520.15(e) for the above-listed categories of documents. Given the exigencies of this litigation, Huntleigh believes that the requested limited exception for disclosure of this information is amply justified by the following circumstances:

A. The 9/11 litigation is a matter of considerable importance that has been expressly authorized by Act of Congress. *See* Air Transportation Safety and Systems Stabilization Act, Pub. L. No. 107-42, 115 Stat. 230 (2001 (the "Stabilization Act"). The 9/11 litigation involves approximately 100 wrongful death and personal injury actions and numerous property damage claims aggregating many billions of dollars in alleged losses.

B. The 9/11 litigation has at its core the adjudication of factual and legal issues concerning the structure and implementation of the nation's aviation security system as it existed on September 11, 2001, with a special focus on then-existing standards and procedures for checkpoint screening operations and inflight aviation security, including the so-called "Common Strategy" for dealing with attempted hijackings developed by the FAA and incorporated into the ACSSP.

C. Disclosure of the above categories of documents is essential to the fair adjudication of the 9/11 litigation. Failure to permit Huntleigh to make use of the specified documents in its defense would be fundamentally unfair to Huntleigh and violate its due process rights.

Sarah Tauber, Esq.  
December 13, 2005  
Page 3

D. The requested documents relate not merely to factual matters but set forth the legal standard of care to which Huntleigh was required to conform its conduct in conducting aviation security operations as of September 11, 2001. Both the ACSSP and the Security Directives were binding regulations operating with the force of law upon Huntleigh on September 11, 2001. The Information Circulars and COG were closely related documents adding a critically important interpretative gloss to the legal requirements embodied in the ACSSP and the Security Directives. It is difficult to envision how the 9/11 litigation can proceed at all unless Huntleigh is permitted to introduce in its defense the documents that defined the standard of care with which it was required to comply, as well as set forth the various roles of the airlines, security companies, and other parties in the overall security plan.

E. The requested documents are no longer in force and have been superseded since September 11, 2001, by substantially modified requirements. Disclosure of these documents will thus shed little light on currently effective aviation security standards. Moreover, incomplete information concerning the content of these documents has already been made publicly available, particularly through the so-called Kean Commission Report and the associated Aviation Monograph and supplemental Staff Statements.

F. We also make this request so that the defendants can have access to each other's SSI material. As you know, the defendants in this litigation have defenses common to all of them. These common defenses in large part rely on the requested documents. In order for the defendants to conduct a joint defense, it is imperative that the defendants be able to have access to the requested documents. Such access is not permissible absent the TSA's acquiescence and compliance with this request.

If TSA is willing to permit the use of the requested documents for purposes of the 9/11 litigation, Huntleigh would welcome the opportunity to work with TSA to develop a protocol that would limit the disclosure of the documents and the information contained therein to the narrowest possible audience consistent with the needs for fair adjudication of the litigation, and to ensure to the greatest extent possible that no disclosure will be made to unauthorized persons. Huntleigh believes that disclosure will be necessary to designated counsel for plaintiffs and defendants, to the Court and court personnel, to TSA-approved court reporters and to certain fact and expert witnesses. All such persons would be required to subscribe to confidentiality orders and to adopt specified procedures to avoid unauthorized use or disclosure of the documents or the information contained therein.

### Discussion

Huntleigh is mindful of the difficult task facing TSA in its unique role in this litigation and of the importance to aviation security of preventing unnecessary and unauthorized disclosure of SSI. Accordingly, Huntleigh in this initial submission is limiting its request for disclosure of SSI documents to those directly pertinent to defining the legal standard of care under which it was operating on September 11, 2001.

Before the Stabilization Act, a substantial and growing body of precedent had concluded that FAA regulations preempt state common law standards and set forth the exclusive standard of care for tort claims relating to the subject matter of the regulations. *See, e.g., Abdullah v. American Airlines, Inc.*, 181 F.2d 363 (3d Cir. 1999); *Curtin v. Port Auth.*, 183 F. Supp. 2d 664 (S.D.N.Y. 2002); *see also In re Sept. 11 Litig.*, 280 F. Supp. 2d 279, 296-97 (S.D.N.Y. 2003). This body of precedent is reinforced by Section 408(b)(2) of the Stabilization Act, which provides that the 9/11 claims are governed by the law of the state in which the crash occurred “*unless such law is inconsistent with or preempted by Federal law.*” Very similar language in the Price-Anderson Amendments Act consistently has been construed to mean that regulations issued by the Nuclear Energy Regulatory Commission preempt state common law and set forth the exclusive standard of care applicable to tort claims under the Act. *See, e.g., O’Conner v. Commonwealth Edison Co.*, 13 F.3d 1090, 1104 (7th Cir. 1994); *see, e.g., Roberts v. Fla. Power & Light Co.*, 146 F.3d 1305, 1308 (11th Cir. 1998).

The ACSSP and the Security Directives were mandatory FAA requirements having the force of law that defined the security-related obligations of Huntleigh on September 11, 2001. *See, e.g.*, 14 CFR § 108.9(a) (2001); 14 CFR § 108.25 (2001); 66 Fed. Reg. 37330, 37339 (July 17, 2001); 49 CFR § 1540.303 (2004). The Information Circulars were closely related documents that shed important light on how the ACSSP and the Security Directives were to be implemented. Thus, there can be little disagreement that the requested documents collectively set forth the standard of care with which Huntleigh was required to comply on September 11, 2001.

Civil litigation sometimes can proceed fairly without the parties having access to certain evidence because of its privileged status, but no litigation can proceed if the applicable standard-setting legal principles cannot be disclosed to the court or to the trier of fact. It would be unfair and a denial of due process to subject Huntleigh to trials seeking billions of dollars in damages without permitting it to present in its defense the legal standards that governed its conduct. Under far less compelling circumstances than those present here, courts have felt obliged to dismiss litigation

where national security considerations precluded the disclosure even of factual information essential to the fair resolution of the dispute. *See, e.g., Zuckerbraun v. Gen. Dynamics Corp.*, 935 F.2d 544 (2d Cir. 1991); *Mounsey v. Allied Signal, Inc.*, CV-95-4309 (C.D. Cal. April 10, 2000); *Bentzlin v. Hughes Aircraft Co.*, 883 F. Supp. 1486, 1496 (C.D. Cal. 1993).

At separate trials in the 9/11 litigation, juries will be asked to determine whether (as to liability) Huntleigh and other defendants complied with applicable FAA regulations and faithfully implemented the FAA-mandated aviation security system and whether (as to proximate cause) any alleged failures of compliance played a causal role in the hijackings and their outcome. These questions cannot fairly be resolved without providing the parties and the triers of fact access to the actual contents of information from the ACSSP, the COG, the Security Directives and the Information Circulars. Even portions of these documents (such as those relating to standards for screening for explosives in checked baggage) that may not at first blush appear to be implicated by the events of 9/11 may nonetheless have an important bearing on the outcome of the litigation by demonstrating that such explosives were the primary threat perceived by the federal aviation security system on September 11, 2001.

Huntleigh appreciates TSA's efforts to prepare SSI substitutes and has carefully reviewed the proposed substitutes. These substitutes, however, are too general in nature, and too lacking in detail and nuance, to permit Huntleigh to present a full and fair defense. Moreover, a substitute by its very nature does not completely and accurately reveal the contents of the original.

An important illustration of the shortcomings of the SSI substitutes involves one of the major issues in the 9/11 litigation, e.g., whether walkthrough metal detectors were so calibrated that checkpoint screening should have detected the short-bladed knives allegedly carried by the hijackers. The actual ACSSP sets forth in detail the calibration standards for the detectors. Yet the proposed substitute SSI provides no information on this issue, stating merely:

For each detection device used by the air carrier, an initial test will be conducted by the FAA to establish the minimum setting at which that device shall be operated. (p. 17)

Indeed, the SSI substitute is substantially less informative than other publicly available material. Both page 2 of the 9/11 Commission Report and page 77 of the 9/11 Commission Aviation Monograph reveal that walkthrough metal detectors had to be calibrated to detect items with the metal content of a .22 caliber handgun rather than a short-bladed knife.

Sarah Tauber, Esq.  
December 13, 2005  
Page 6

Another important issue in the 9/11 litigation is to what extent screeners were required to search for short-bladed knives before September 11, 2001. The ACSSP and the COG set forth these requirements in detail and specifically list the test weapons against which screeners and screening equipment were to be evaluated. Yet the proposed substitute SSI provides no information as to checkpoint test items used prior to September 11, 2001. In contrast, page 74 of the Aviation Monograph states that "prior to 9/11, checkpoints were not tested for their ability to detect knives, because short knives were not FAA-approved test items."

The problems with SSI substitutes will be exacerbated in the deposition process. Witnesses with knowledge of checkpoint screening procedures and the Common Strategy will be asked numerous questions calling for disclosure of information from the ACSSP, the COG, the Security Directives and the Information Circulars. If they are restricted to disclosing only that information contained in the SSI substitutes, their answers will be incomplete and misleading. In essence, the witnesses would be instructed to testify to the truth but not the whole truth. It is hard to imagine that civil litigation can result in a fair adjudication under such constraints.

Accordingly, Huntleigh respectfully requests that TSA permit the disclosure and use in this litigation, under appropriate safeguards and limitations, of the categories of documents set forth in items 1 through 3 above.

Respectfully submitted,

SUSMAN GODFREY L.L.P.

By           *JSR*            
Jonathan J. Ross

cc: The Honorable Alvin K. Hellerstein  
Beth E. Goldman, Esq.  
Sarah S. Normand, Esq.  
Jeannette A. Vargas, Esq.  
All Liaison Counsel

**SIMPSON THACHER & BARTLETT LLP**

425 LEXINGTON AVENUE  
NEW YORK, N.Y. 10017-3954  
(212) 455-2000

FACSIMILE (212) 455-2502

DIRECT DIAL NUMBER

212-455-3203

E-MAIL ADDRESS

jwayland@sthlaw.com

VIA FEDERAL EXPRESS

December 15, 2005

Re: In re September 11 Tort Litigation, 21 MC 97 (SDNY) (AKH)

Sarah Tauber, Esq.  
Office of the Chief Counsel  
Transportation Security Administration  
601 South 12th Street, TSA-2  
Arlington, Virginia 22202

Dear Ms. Tauber:

We represent Argenbright Security, Inc. in the above-referenced litigation and are making this submission to the Transportation Security Administration ("TSA") in accordance with the letters from Beth Goldman, Esq. dated December 2, 2005 and December 6, 2005.

Based on statements by the TSA's counsel at the November 18, 2005 and November 29, 2005 court conferences and the above-referenced letters from Ms. Goldman, it is our understanding that the TSA intends to first issue final orders with respect to "first wave" documents and the TSA's non-disclosure policy concerning the release of SSI to persons outside the "need to know" category set forth in 49 C.F.R. § 1520.11.

In anticipation of these TSA final orders and as requested by Ms. Goldman in her December 6, 2005 letter, AMR Corporation and American Airlines, Inc. (collectively "American") have assembled materials for inclusion in the record on appeal of the final orders. Those materials are identified in "Exhibit A" to the December 14, 2005 letter from Desmond T. Barry and Roger E. Podesta ("American's Exhibit A").

Argenbright hereby joins in American's request for the inclusion in the record on appeal those items identified in American's Exhibit A. In addition, Argenbright respectfully requests that the following documents also be included in the record of appeal:

- With reference to Category I of American's Exhibit A ("Unredacted versions of the first wave documents submitted to TSA"):
  - The Air Carrier Standard Security Program (Bates Nos. ASI-TSA 000001-0000256; ASI-TSA 0000577-0000583; ASI-TSA 0000584-0000595)

LOS ANGELES

PALO ALTO

WASHINGTON, D.C.

HONG KONG

LONDON

TOKYO

- Security Directives and Emergency Amendments issued by the FAA for the period September 11, 2000 through September 11, 2001 (Bates Nos. ASI-TSA 0000313-0000328; ASI-TSA 0000333-0000340)
- The Checkpoint Operations Guide in use as of September 11, 2001 (Bates Nos. ASI-TSA 0000362-0000518; ASI-TSA 0000519-0000576)
- Information Circulars issued by the FAA for the period September 11, 2000 through September 11, 2001 (Bates Nos. ASI-TSA 0000312; ASI-TSA 0000329-0000332; ASI-TSA 0000341-0000361; ASI-TSA 0000596-0000602)
- With reference to Category II of American's Exhibit A ("TSA Redactions and/or 'Substitutes' of First Wave SSI documents and TSA Declarations"):
  - Redacted Checkpoint Operations Guide (Bates Nos. ASI-TSA 0000362-0000576)
- With reference to Category IV of American's Exhibit A ("Correspondence between and among the TSA and the parties regarding SSI's policies, procedures and first wave documents and other documents necessary for the record") (No bates numbers)
  - Letter to Carla Martin from Allison Sealove dated October 23, 2003
  - Letter to Desmond T. Barry from Beth Goldman dated October 29, 2003
  - Letter to Carla Martin from Allison Sealove dated November 24, 2003
  - Letter to Carla Martin from Allison Sealove dated February 9, 2004
  - Letter to Carla Martin from Allison Sealove dated February 17, 2004
  - Letter to Carla Martin from Allison Sealove dated March 19, 2004

Sarah Tauber, Esq.

-3-

December 15, 2005

- Letter to Sarah Normand from Joseph Wayland dated June 23, 2004
- Letter to Amy Ruggeri from Allison Sealove dated June 24, 2004
- Letter to Beth Goldman from Lori Siembieda dated February 9, 2005
- Letter to Lori Siembieda from Beth Goldman dated February 11, 2005
- Letter to Beth Goldman from Lori Siembieda dated June 22, 2005
- Letter from Beth Goldman to Lori Siembieda dated July 19, 2005
- Letter to Beth Goldman from Barbara Zicherman dated October 4, 2005
- Letter to Barbara Zicherman from Beth Goldman dated October 26, 2005

For your convenience, we have enclosed the above-listed documents in hard copy and on CD. Because the additional documents listed under Category I contain SSI, those documents are being provided to TSA only and will not be forwarded to any of the copy recipients.

SIMPSON THACHER & BARTLETT LLP

Sarah Tauber, Esq.

-4-

December 15, 2005

Finally, Argenbright shares American's interest in meeting with TSA to discuss logistical issues related to the organization of the record on appeal and any related matters. We look forward to having an opportunity to discuss these issues with TSA.

Respectfully submitted,

SIMPSON THACHER & BARTLETT LLP

By           JS            
Joseph Wayland

Counsel for Argenbright Security, Inc.

cc: The Honorable Alvin K. Hellerstein  
Beth E. Goldman, Esq.  
Sarah S. Normand, Esq.  
Jeannette A. Vargas, Esq.  
All Liaison Counsel



Thomas J. McLaughlin  
PHONE: 206.359.8483  
FAX: 206.359.9483  
EMAIL: [tmclaughlin@perkinscoie.com](mailto:tmclaughlin@perkinscoie.com)

1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
PHONE: 206.359.8000  
FAX: 206.359.9000  
[www.perkinscoie.com](http://www.perkinscoie.com)

December 15, 2005

*Via Electronic Mail* ([sarah.tauber@dhs.gov](mailto:sarah.tauber@dhs.gov))

Sarah Tauber, Esq.  
Transportation Security Administration  
601 South 12th Street, TSA-2  
Arlington, Virginia 22202

Re: **In re September 11 Tort Litigation, 21 MC 97 (SDNY) (AKH)**  
**In re September 11 Property Damage and Business Loss Litigation,**  
**21 MC 101 (SDNY) (AKH)**

Dear Ms. Tauber:

We represent The Boeing Company ("Boeing") in the above-referenced litigation (the "September 11 Litigation"). We make this submission pursuant to the instructions set forth in the December 2, 2005 letter of Beth E. Goldman, Esq. (copy attached hereto as Exhibit 1) concerning the final orders that the Transportation Security Administration ("TSA") intends to issue (1) denying disclosure of Sensitive Security Information ("SSI") in the September 11 Litigation to persons outside the "need to know" categories set forth in 49 C.F.R. § 1520.11 and (2) concerning the designation and redaction of the so-called "first wave" documents.

Boeing agrees with and joins in the position of American Airlines ("American") set out in American's December 12, 2005 letter to the TSA (copy attached hereto as Exhibit 2). However, because plaintiffs' claims against Boeing in the September 11 Litigation differ from those against American, we offer this supplemental submission to underscore the additional reasons that disclosure of SSI is essential to a fair and just resolution of the litigation.

[01038-9996/SL053480.239]

ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DENVER · HONG KONG · LOS ANGELES  
MENLO PARK · OLYMPIA · PORTLAND · SAN FRANCISCO · SEATTLE · WASHINGTON, D.C.

Perkins Cole LLP (Perkins Cole LLC in Illinois)

Sarah Tauber, Esq.  
December 15, 2005  
Page 2

### **Access to SSI Is Necessary for a Full and Fair Defense of Boeing in the September 11 Litigation**

Plaintiffs premise their claims against Boeing on the allegation that the design of the cockpit doors caused or contributed to the September 11, 2001 hijackings. Specifically, plaintiffs allege in their Master Complaints that each of the four hijacked aircraft lacked a "secure" cockpit door that would have prevented the terrorists from accessing its cockpit.

A fundamental deficiency in plaintiffs' claims against Boeing is that there is no evidence that the hijackers accessed any of the cockpits by breaking through the cockpit door. In fact, the evidence is to the contrary: the hijackers planned and trained to storm the cockpits when the doors were first opened by the crew members.<sup>1</sup> Thus, the security of the cockpit doors is not causally related to the hijackings. To the extent that information relevant to the issue of access to the cockpit, such as the practices and procedures for crew members opening the cockpit door during normal flight conditions (*i.e.*, when no hijacking is occurring), is contained within documents designated as SSI, then access to SSI is necessary for Boeing to present a full and fair defense in the September 11 Litigation.

---

<sup>1</sup> For example, the Final Report of the National Commission on Terrorist Attacks Upon the United States (the "9/11 Commission Report") included statements that the hijackers planned to storm the cockpits when the doors were first opened by crew members. The report describes a discussion between Mohammed Atta, the lead hijacker, and Ramzi Binalshibh, one of Atta's contacts with Al Qaeda, regarding how they would gain access to the cockpit:

The best time to storm the cockpit would be about 10-15 minutes after takeoff, when the cockpit doors typically would be opened for the first time. ... [Atta] had no firm contingency plan in case the cockpit door was locked. While he mentioned general ideas such as using a hostage or claiming to have a bomb, he was confident the cockpit doors would be opened and did not consider breaking them down a viable idea.

(9/11 Commission Report, at 245.) Similarly, the so-called "muscle hijackers" (the non-pilots) were trained "to focus on storming the cockpit at the earliest opportunity when the door was first opened ... ." (*Id.* at 236.) Nothing in the 9/11 Commission Report suggests the hijackers broke through the cockpit doors.

Sarah Tauber, Esq.  
December 15, 2005  
Page 3

Another deficiency in plaintiffs' case involves the FAA-approved common strategy for dealing with hijackers that was in place on September 11, 2001 (the "Common Strategy"). Although Boeing does not have access to the Air Carrier Standard Security Program ("ACSSP"), the Common Strategy is apparently detailed therein. From public sources, Boeing understands that the Common Strategy instructed crew to allow hijackers access to the cockpit if the hijackers insisted. If true, then information about the Common Strategy is highly relevant to the issue of the hijackers' ability to access the cockpit, and thus to Boeing's defense. For this reason, it is essential that Boeing be allowed access to SSI, including the ACSSP.

#### **Substitutes for SSI Are Insufficient for a Full and Fair Defense of Boeing in the September 11 Litigation**

In certain instances, the TSA has produced substitutes for documents containing SSI. Although Boeing appreciates the effort made by the TSA to craft substitutes, Boeing believes that the substitutes are insufficient for Boeing to present a full and fair defense because they fail to convey the details and nuances that are critical to understanding the true nature of the documents for which they are a substitute. In addition, the substitutes can be misleading.

For example, with regard to information regarding the Common Strategy, the TSA has produced a substitute for the ACSSP in effect on September 11, 2001 that includes redacted Common Strategy tactics for responding to an in-flight hijacking. (See First Decl. of K. Moore, September 7, 2005.) However, in certain key respects the substitute ACSSP is vague and potentially inconsistent.

Boeing understands that one of the overriding principles of the Common Strategy was that flight crews were to *cooperate* with hijackers. For instance, as described by the 9/11 Commission, the Common Strategy taught "flight crews that the best way to deal with hijackers was to accommodate their demands . . ." (9/11 Commission Report, at 85.) The Aviation Monograph released by the 9/11 Commission describes the Common Strategy similarly at page 81. Similarly, the TSA's substitute ACSSP states that the Common Strategy instructed cockpit crew to "[e]ncourage flight attendants to stay with hijackers in the cockpit," and cabin crew to "[a]ssure hijackers that crew will cooperate with their demands." However, the substitute ACSSP also indicates that cabin crew were to "[a]ttempt to keep hijackers out of cockpit." (*Id.* at 52-54.) In light of the inconsistencies, Boeing believes that the substitute ACSSP does not fully, fairly, and accurately describe the Common Strategy. Given the centrality of the issue

Sarah Tauber, Esq.  
December 15, 2005  
Page 4

to Boeing's defense, Boeing requests that the TSA allow the disclosure of SSI, including the complete Common Strategy, for use in the September 11 Litigation under appropriate safeguards and limitations.

For these reasons, as well as those set forth in American's December 12, 2005 submission to the TSA, Boeing requests that the TSA allow disclosure of SSI in the September 11 Litigation under appropriate safeguards and limitations.

Thank you for your consideration.

Very truly yours,

  
Thomas J. McLaughlin

Counsel for The Boeing Company

Enclosures

cc (w/ enc.): The Honorable Alvin K. Hellerstein  
Beth E. Goldman, Esq.  
Sarah S. Normand, Esq.  
All Liaison Counsel

TJM:mhs



ONE CONSTITUTION PLAZA  
THIRD FLOOR  
BOSTON, MA 02129  
TEL: (617) 241-3000  
FAX: (617) 241-5115

RICHARD P. CAMPBELL  
(617) 241-3061  
rpcampbell@campbell-trial-lawyers.com

December 15, 2005

**VIA [EMAIL/FEDERAL EXPRESS]**

Sarah Tauber, Esquire  
Office of the Chief Counsel  
Transportation Security Administration  
601 South 12th Street, TSA-2  
Arlington, VA 22202

RE: In re September 11 Tort Litigation, 21 MC 97 (SDNY) (AKH)

Dear Ms. Tauber:

We are counsel to defendants US Airways, Inc. and US Airways Group, Inc. (collectively, "US Airways") in the above-captioned litigation. Pursuant to the instructions set forth in Ms. Goldman's correspondence dated December 2, 2005, this letter serves to inform you that US Airways joins, adopts, and seeks the same relief sought by Messrs. Barry and Podesta on behalf of AMR Corp. and American Airlines, Inc. (collectively, "American") in their correspondence of December 12, 2005 to you ("the December 12<sup>th</sup> correspondence") (copy attached). In addition to the documents referenced in the December 12<sup>th</sup> correspondence, US Airways requests that the Transportation Security Administration ("TSA") permit the disclosure of the following additional documents, which US Airways submitted to the TSA as part of its so-called "first wave" document production:

1. The complete Air Carrier Standard Security Program ("ACSSP"), with all appendices and exhibits, for US Airways in effect as of September 11, 2001. (US Airways Document Production Numbers US-TSA-000000 through US-TSA-000255); and
2. The complete Checkpoint Operations Guide ("COG"), with exhibits and appendices, in use as of September 11, 2001. (US Airways Document Production Numbers US-TSA-000256 through US-TSA-000340(L)).

US Airways makes this joinder solely in connection with the wrongful death/personal injury litigation as the plan injunction remains in effect for the property damage and business loss litigation. If and when the plan injunction is lifted with respect to the latter claims, US Airways reserves the right to supplement its joinder letter and to request that the same relief be deemed applicable to the property damage and business loss litigation as well.



Sarah Tauber, Esquire  
December 15, 2005  
Page 2

Finally, this submission is also intended to cover only those documents produced in connection with the "first wave" document production. US Airways expressly reserves its right to expand the scope of documents for which this relief is sought if and when it is necessary.

Very truly yours,

A handwritten signature in dark ink, appearing to be the initials "R.P.C." or a stylized "R/C" with a vertical line through the "C".

Richard P. Campbell

RPC/  
Encl/

cc: Honorable Alvin K. Hellerstein (via facsimile w/ encl.)  
Beth E. Goldman, Esquire (via email w/ encl.)  
Sarah S. Normand, Esquire (via email w/ encl.)  
Marc Moller, Esquire (via email w/ encl.)  
Robert Clifford, Esquire (via email w/ encl.)  
Richard Williamson, Esquire (via email w/ encl.)  
Desmond T. Barry, Jr., Esquire (via email w/ encl.)

**CONNELL FOLEY LLP**  
**ATTORNEYS AT LAW**

JOHN A. PINDAR (1969)  
GEORGE W. CONNELL (2005)  
ADRIAN M. FOLEY, JR.  
GEORGE J. KENNY\*  
KENNETH F. KUNZMAN  
SAMUEL D. LORD  
RICHARD D. CATENACCI  
RICHARD J. BADOLATO\*  
PETER D. MANAHAN  
JOHN B. MURRAY  
MARK L. FLEDER  
KEVIN J. COAKLEY  
WILLIAM H. GRAHAM\*  
THOMAS S. COSMA  
KATHLEEN S. MURPHY  
PATRICK J. MCAULEY  
PETER J. PIZZI\*  
KEVIN R. GARDNER  
ROBERT E. RYAN  
MICHAEL X. MCBRIDE\*  
JEFFREY W. MORYAN  
JOHN K. BENNETT  
PETER J. SMITH\*

BRIAN G. STELLER  
PHILIP F. MCGOVERN, JR.  
KAREN PAINTER RANDALL  
LIZA M. WALSH  
JOHN P. LACEY  
TIMOTHY E. CORRISTON\*  
ERNEST W. SCHOELLKOPFF\*  
PATRICK J. HUGHES\*  
JAMES C. MCCANN  
JOHN D. CROMIE  
ANGELA A. IUSO\*  
GLENN T. DYER  
WILLIAM T. MCGLOIN\*  
BRENDAN JUDGE  
DAREN S. MCNALLY\*  
STEPHEN V. FALANGA\*  
JEFFREY L. O'HARA  
TRICIA O'REILLY\*  
ANTHONY F. VITIELLO\*  
MARC D. HAEFNER  
JONATHAN P. MCHENRY  
JAMES P. REATICAN\*

85 LIVINGSTON AVENUE  
ROSELAND, N.J. 07068-3702  
(973) 535-0500  
FAX: (973) 535-9217

JERSEY CITY OFFICE  
HARBORSIDE FINANCIAL CENTER  
2510 PLAZA FIVE  
JERSEY CITY, N.J. 07311-4029  
(201) 521-1000  
FAX: (201) 521-0100

NEW YORK OFFICE  
888 SEVENTH AVENUE  
NEW YORK, N.Y. 10106  
(212) 262-2390  
FAX: (212) 262-3118

PHILADELPHIA OFFICE  
1500 MARKET STREET  
PHILADELPHIA, PA 19102  
(215) 246-3403  
FAX: (215) 665-5727

COUNSEL  
JOHN B. LA VECCHIA  
VIRGINIA M. EDWARDS\*  
FRANCIS E. SCHILLER  
EUGENE P. SQUEO  
BERNARD M. HARTNETT, JR.  
NOEL D. HUMPHREYS  
ANTHONY ROMANO II  
CHARLES J. HARRINGTON III\*

KARIN I. SPALDING\*  
MATTHEW W. BAUER\*  
JOSEPH C. DEBLASIO  
JODI ANNE HUDSON\*  
RICHARD A. JAGEN  
JOHN S. STOLZ\*  
W. NEVINS MCCANN\*  
MITCHELL W. TARASCHI  
BRAD D. SHALIT\*  
THOMAS J. O'LEARY\*  
DAVID J. MAIRO\*  
WALTER J. DORGAN III\*  
AGNES ANTONIAN\*  
BRYAN P. COUCH\*  
GREGORY E. PETERSON  
MICHELE T. TANTALLA\*  
PHILIP N. FLUHR  
THOMAS J. PASUIT\*  
PATRICK S. BRANNIGAN\*

MATTHEW I. GENNARO  
M. TREVOR LYONS\*  
MICHAEL A. SHADIACK  
JOHN T. FOJUT  
OWEN C. MCCARTHY  
PATRICIA A. LEE\*  
PETER Y. LEE\*  
NEEL V. MODY  
JENNIFER C. CRITCHLEY\*  
MELISSA A. DIDATO\*  
MATTHEW S. SCHULTZ\*  
CRAIG A. ROSEN  
RYAN A. MCGONIGLE\*  
DANIA M. BILLINGS\*  
GEORGE M. PATTERSON\*  
ANTONIO CELI\*  
ALEXIS E. LAZZARA  
TED P. CASTELL  
RONAK R. CHOKSHI\*  
CHRISTINE I. GANNON\*  
DOUGLAS J. SHORT\*  
ELIZABETH A. BARROW  
MICHAEL A. BASELVIOS  
CATHERINE G. BRYAN\*  
AYANNA A. CAGE  
MICHAEL P. DAVIS  
JAMES C. HAYNIE  
LAURIE B. KACHONICK  
MAIDA PEREZ  
WILLIAM D. DEVEAU\*  
THOMAS A. TELESKA\*  
VINCENT A. ANTONIELLO

\* ALSO ADMITTED IN NEW YORK  
\* ALSO ADMITTED IN PENNSYLVANIA

WRITER'S DIRECT DIAL

PLEASE REPLY TO ROSELAND, N.J.

December 15, 2005

**VIA ELECTRONIC MAIL AND FEDERAL EXPRESS**

Sarah Tauber, Esquire  
Office of the Chief Counsel  
Transportation Security Administration  
601 South 12th Street, TSA-2  
Arlington, VA 22202

Re: In re September 11 Tort Litigation  
21 MC 97 (AKH)

In re September 11 Property Damage and Business Loss Litigation  
21 MC 101 (AKH)

Dear Ms. Tauber:

We are counsel to defendant Colgan Air, Inc. ("Colgan") in the above-captioned litigation. Pursuant to the instructions set forth in Ms. Goldman's correspondence dated December 2, 2005, this letter serves to inform you that Colgan joins, adopts and seeks the same relief sought by Messrs. Barry and Podesta on behalf of AMR Corp. and American Airlines, Inc. (collectively, "American") in their correspondence of December 12, 2005 to you (copy attached). In addition to the documents referenced in the December 12<sup>th</sup> correspondence, Colgan requests that the Transportation Security Administration ("TSA") permit the disclosure of the following additional documents, submitted by Colgan to the TSA as part of its so-called "first wave" document production:

December 15, 2005

Page 2

1. The complete Checkpoint Operations Guide ("COG"), with exhibits and appendices, in use as of September 11, 2001. (Colgan Document Production Numbers COL-TSA-000001 through COL-TSA-000142); and
2. The complete Air Carrier Standard Security Program ("ACSSP") for Colgan, with all appendices and exhibits, in effect as of September 11, 2001. (Colgan Document Production Numbers COL-TSA-000143 through TSA-000403).

This submission is intended to cover only those documents produced by Colgan to the TSA as part of its "first wave" document production. Colgan expressly reserves its right to expand the scope of documents for which this relief is sought if and when it is necessary.

Very truly yours,

  
/ Jeffrey W. Moryan

JWM/JPM:dmb

Enclosure

cc: Honorable Alvin K. Hellerstein (w/ encl.)  
Beth E. Goldman, Esquire (w/ encl.)  
Sarah S. Normand, Esquire (w/ encl.)  
Desmond T. Barry, Esquire (w/ encl.)  
Marc Moller, Esquire (w/ encl.)  
Robert Clifford, Esquire (w/ encl.)  
Richard Williamson, Esquire (w/ encl.)



Transportation  
Security  
Administration

**Final Order on Requests for Identification of Sensitive Security Information  
in Documents Submitted as Part of the Second Wave of Discovery  
in In Re September 11 Litigation, 21 MC 97 (S.D.N.Y.)**

**I. Requests for Identification of Sensitive Security Information (SSI)  
in Submitted Documents**

In connection with *In Re September 11 Litigation, 21 MC 97 (S.D.N.Y.)*, United Airlines, American Airlines, Globe Aviation Services Corporation, Argenbright Security, and Huntleigh USA Corporation (collectively "Defendant Submitters") submitted to the Transportation Security Administration ("TSA") documents believed to be responsive to discovery requests in the above-captioned litigation and to contain SSI. Collectively, the Defendant Submitters sent more than 20,000 pages of documents (hereinafter "submitted documents") to TSA for review and final SSI determination, as discussed herein.<sup>1</sup>

**II. Delegation of Authority to Make Final SSI Determinations**

The authority to identify information pertaining to transportation security as SSI is delegated to the Director of the SSI Office, pursuant to a delegation order signed by then Acting Deputy Administrator, Kenneth Kasprisin, on April 29, 2005. This delegation order is in effect as of the date of this Final Order and has not been amended.

**III. Review Process**

Pursuant to 49 U.S.C. § 114(s) and 49 C.F.R. Part 1520, SSI cannot be disclosed to persons who lack the need to know defined therein. TSA's security experts carefully reviewed each of the more than 20,000 pages of submitted documents for the purpose of identifying SSI therein and redacting the documents to delete SSI where possible. To minimize the impact of the nondisclosure of SSI on the litigation, TSA's review withheld the minimum SSI material necessary to protect transportation security.

---

<sup>1</sup> TSA has not yet completed its review of two categories of materials submitted as part of the Second Wave: a number of videotapes submitted by several of the Defendant Submitters and a set of documents (GLB-A-000003467-000003477) submitted for review by Defendant Globe on February 10, 2006. Neither the videotapes nor the additional Globe documents are the subject of this Order.

To that end, agency security and SSI experts performed multiple reviews of each document. Each page was subjected to a line-by-line review for SSI, which review included consultation with subject-matter experts, and reference to past precedents and open-source (media and other public) information. For example, in order to ensure consistency in SSI decision-making, and to ensure that no sensitive security information is inadvertently released, TSA compared each document to the database it maintains of all documents that have been reviewed previously for public release. In addition, where information contained in the documents implicated programs and policies not within TSA's jurisdiction, TSA consulted with the governmental agency that possesses the relevant knowledge and expertise.

TSA also paid particular attention to identifying any older information that no longer needed to be protected, and TSA has authorized the disclosure of all such information. TSA's review of the information contained in the submitted documents revealed that while some aspects of the security programs in effect as of September 11, 2001, have been superseded by new measures, significant elements of the programs remain in effect, or have been modified only subtly, and thus release today of information pertaining to those programs could compromise transportation security. TSA engages in a constant process of updating its security countermeasures to respond to the most recent intelligence pertaining to terrorist and safety threats, frequently sending updated information and instructions to airlines and other entities charged with implementing the government's aviation security requirements. Thus, while a particular document may have been superseded by a new version, information contained in the original document may continue to be used. For this reason, the date of a particular communication or directive reveals little about the sensitivity of the information therein.

TSA's SSI determinations also are based on the knowledge that the disclosure of even small pieces of seemingly innocuous information could be used by terrorists to construct a mosaic that can be analyzed and synthesized to reveal existing security measures and vulnerabilities. As provided in 49 C.F.R. Part 1520, only if a security countermeasure is obsolete, in that it will not be revived and therefore reveals nothing about current or future security countermeasures, or if security intelligence is overtaken by events, will information lose its SSI protection and be released publicly.

#### **IV. Final SSI Determinations**

TSA has completed its review of each document submitted by the Defendant Submitters, has identified SSI contained therein, if any, and has created redacted versions of the documents, where possible. The agency returned each submitted document to the appropriate Defendant Submitter, together with authorization to release the document in full, or as redacted, or with instructions to withhold the document in full. The SSI Program Office has reviewed each submitted document, and I have determined that the withheld information is SSI, pursuant to 49 U.S.C. § 114(s) and 49 C.F.R. Part 1520.

Attached are five indices - one for each Defendant Submitter - that list the documents

TSA reviewed and provide legal authority for the SSI designations.

**V. Final Order**

This Order is issued under 49 U.S.C. § 114(s) and is final. Pursuant to 49 U.S.C. § 46110, any person disclosing a substantial interest in this Order may, within 60 days of its issuance, apply for review by filing a petition for review in an appropriate U.S. Court of Appeals.

Date: March 17, 2006

AS  
Andrew Colsky  
Director, SSI Office

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

American Airlines Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave	Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
	1413	1413	1	Ground Security Coordinator (GSC) Training Materials: Instructor Manual	8(i), 10
	1457	1458	2	GSC Training Materials: Instructor Manual	8(i), 10
	1463	1463	1	GSC Training Materials: Instructor Manual	8(i), 10
	1467	1467	1	GSC Training Materials: Instructor Manual	8(i), 10
	1475	1475	1	GSC Training Materials: Instructor Manual	8(i), 10
	1488	1489	2	GSC Training Materials: Instructor Manual	8, 10
	1491	1492	2	GSC Training Materials: Instructor Manual	8(i), 10
	1493	1494	2	GSC Training Materials: Instructor Manual	8(i), 10
	1494	1494	1	GSC Training Materials: Instructor Manual	8(i), 10
	1494	1497	4	GSC Training Materials: Instructor Manual	1(i), 8, 8(i), 10
	1502	1502	1	GSC Training Materials: Instructor Manual	8, 10
	1503	1503	1	GSC Training Materials: Instructor Manual	8(i), 10
	1504	1504	1	GSC Training Materials: Instructor Manual	8(i), 10
	1506	1507	2	GSC Training Materials: Instructor Manual	1(i), 8, 8(i), 10
	1514	1514	1	GSC Training Materials: Instructor Manual	8, 10
	1516	1517	2	GSC Training Materials: Instructor Manual	8, 10
	1520	1521	2	GSC Training Materials: Instructor Manual	1(i), 8, 8(i), 10

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

American Airlines Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave	Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
	1523	1538	16	GSC Training Materials: Instructor Manual	8, 10
	1541	1542	2	GSC Training Materials: Instructor Manual	8, 10
	1547	1554	8	GSC Training Materials: Instructor Manual	8, 10
	1558	1562	5	GSC Training Materials: Instructor Manual	8(ii), 10
	1563	1589	27	GSC Training Materials: Instructor Manual	8, 10
	1590	1634	45	GSC Training Materials: Instructor Manual	8, 9(i), 10
	1635	1638	4	GSC Training Materials: Instructor Manual	8(ii), 10
	1639	1658	20	GSC Training Materials: Instructor Manual	8(i), 9(i), 10
	1659	1695	37	GSC Training Materials: Instructor Manual	4(i) 4(i), 8, 10
	1671	1672	2	GSC Training Materials: Instructor Manual	1(i), 8(i), 9(i), 10
	1679	1679	1	GSC Training Materials: Instructor Manual	7, 10
	1696	1727	32	GSC Training Materials: Instructor Manual	4(i), 9(i), 9(v), 10
	1728	1743	16	GSC Training Materials: Instructor Manual	4(i), 8, 8(i), 9(i), 9(v), 10
	1744	1774	31	GSC Training Materials: Instructor Manual	7, 8(i), 9(i), 10
	1775	1796	22	GSC Training Materials: Instructor Manual	9(i), 10
	1797	1809	13	GSC Training Materials: Instructor Manual	2(i), 9(i), 10
	1812	1828	17	Letter from Janet Riffe, AA, to Christopher Bidwell, AA, attaching Memorandum from Stephanie Stauffer, FAA, Re: Action: Worldwide Threat Questions and Answers	5, 7
	1829	1832	4	AA Customer Service Required Training Cover Sheet, plus chart of training module requirements	9(i), 10
	1833	1837	5	Letter from J.C. Bullard, AA, to Steve Jenkins, FAA, attaching Certified Training Program materials	1(i), 9(i), 10

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

American Airlines Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave	Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
	1838	1908	71	AA Training Materials on Level III Security International Automated Passenger Profiling System (APPS) Enhancement	4(ii), 9(i), 9(ii), 9(iv), 10
	1909	1930	22	AA Training Materials on Domestic Security Program for Puerto Rico (Skycap Training)	2(i), 4(ii), 5, 7, 8(i), 9(i), 9(iv), 10
	1931	2008	78	AA Training Materials on International Automated Passenger Profiling System (APPS)	9(i), 9(ii), 9(iv), 10
	2009	2014	6	AA Training Materials, Customer Service Required Training, with chart of training modules	4(ii), 5, 7, 9(i), 10
	2015	2025	11	AA Training Materials, Passenger Service Required Training, with chart of training modules	4(ii), 5, 8, 9(i), 9(iv), 10
	2026	2029	4	Duplicate of 2009-2014	4(ii), 5, 7, 9(i), 10
	2030	2040	11	AA Training Materials, Passenger Services Training: DSP Update, plus chart of training modules	4(ii), 9(i), 9(iv), 10
	2041	2043	3	AA Training Requirement Request Form	4(ii), 8, 9(iv), 10
	2044	2045	2	Airport Services Advisory	4(ii), 9(i), 10
	2046	2053	8	Letter from O.J. Treadway, AA, to Janet Ruffee, FAA	9(v), 10
	2055	2057	3	Letter from Janet Ruffee, FAA, to Christopher Bidwell, AA, enclosing ACSPP amendment	1(i)
	2058	2061	4	AA Flight Training Manual, Security/Hazmats	8(i), 10
	2062	2076	15	AA Flight Training Manual, Security/Hazmats	4(ii), 8, 10
	2077	2087	11	AA Flight Training Manual, Security/Hazmats	4(ii), 8, 10
	2088	2091	4	AA Flight Training Manual, Security/Hazmats	1(i), 8(i), 9(i), 10
	2092	2103	12	AA Flight Training Manual, Security/Hazmats	1(i), 4(ii), 8(i), 9(i), 10
	2104	2111	8	AA Flight Training Manual, Security/Hazmats	8, 10
	2112	2113	2	AA Flight Training Manual, Security/Hazmats	1(i), 8(i), 9(i), 10

In Re: September 11 Litigation 21 MC 97, 21 MC 101

American Airlines Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave	Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
	2114	2118	5	AA Flight Training Manual, Security/Hazmats	8, 8(ii), 10
	2119	2129	11	AA Flight Training Manual, Security/Hazmats	1(i), 4(i), 8(i), 10
	2130	2152	23	AA Flight Training Manual, Security/Hazmats	1(i), 8, 8(i), 10
	2153	2157	5	AA Flight Training Manual, Security/Hazmats	1(i), 8, 9(i), 10
	2158	2171	14	AA Flight Training Manual, Security/Hazmats	8, 9(v), 10
	2172	2182	11	AA Flight Training Manual, Security/Hazmats	9(i), 10
	2183	2192	10	AA Flight Training Manual, Security/Hazmats	8, 10
	2193	2197	5	AA Flight Training Manual, Security/Hazmats	1(i), 8(i), 9(i), 10
	2198	2210	13	AA Flight Training Manual, Security/Hazmats	4(i), 9(v), 10
	2211	2223	13	AA Flight Training Manual, Security/Hazmats	4(i), 8, 8(i), 10
	2235	2250	16	AA Flight Training Manual, Security/Hazmats	8, 10
	2251	2256	6	AA Flight Training Manual, Security/Hazmats	1(i), 8(i), 9(i), 10
	2257	2265	9	AA Flight Training Manual, Security/Hazmats	8, 8(i), 10
	2266	2267	2	AA Flight Training Manual, Security/Hazmats	1(i), 8(i), 10
	2268	2276	9	AA Flight Training Manual, Security/Hazmats	8(i), 8(ii), 10
	2277	2278	2	AA Flight Training Manual, Security/Hazmats	9(i), 10
	2289	2291	3	AA Flight Training Manual, Security/Hazmats	1(i), 8(i), 10
	2292	2301	10	AA Flight Training Manual, Security/Hazmats	8, 10
	2302	2305	4	AA Flight Training Manual, Security/Hazmats	1(i), 8(i), 9(i), 10
	2306	2317	12	AA Flight Training Manual, Security/Hazmats	8
	2318	2319	2	AA Flight Training Manual, Security/Hazmats	9(i), 10
	2330	2332	3	AA Flight Training Manual, Security/Hazmats	1(i), 8(i), 10
	2333	2342	10	AA Flight Training Manual, Security/Hazmats	8, 10
	2343	2346	4	AA Flight Training Manual, Security/Hazmats	1(i), 8(i), 9(i), 10
	2347	2358	12	AA Flight Training Manual, Security/Hazmats	4(ii), 9(v), 10

In Re: September 11 Litigation 21 MC 97, 21 MC 101

American Airlines Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave	Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
2386	2597	12	AA 757767 (Aircraft) Operating Manual Vol I, Miscellaneous 15	1(i), 8, 10	
2679	2680	2	AA 757767 (Aircraft) Operating Manual Vol I, Systems 23-24	4(ii), 8, 10	
2694	2694	1	AA 757767 (Aircraft) Operating Manual Vol I, Systems 38	4(ii), 8, 10	
2697	2697	1	AA 757767 (Aircraft) Operating Manual Vol I, Systems 41	4(ii), 8, 10	
2718	2718	1	AA 757767 (Aircraft) Operating Manual Vol I, Systems 62	4(ii), 8, 10	
4389	4389	1	AA Flight Operations Manual Part 1, Section 4:1	8	
4393	4395	3	AA Flight Operations Manual Part 1, Section 4:4-6	8(i)	
4403	4405	3	AA Flight Operations Manual Part 1, Section 5:1-3	8, 8(i)	
4621	4625	5	AA Flight Operations Manual Part 1, Section 13:11-15	4(ii), 8(i), 10	
4626	4627	2	AA Flight Operations Manual Part 1, Section 13:16-17	8(ii)	
4772	4778	7	AA Flight Operations Manual Part 1, Section 19:18-24	4(ii), 8(i)	
4860	4876	17	Duplicate of Nos. 001812-1828	5, 7	
4877	4936	60	AA Security Training Part 1	1(i), 7, 8, 8(i), 8(ii), 10	
4937	5118	182	AA Security Training Part 2 - New Hire	4(i), 4(ii), 5, 7, 8, 8(ii), 9(i), 10	
5119	5160	42	2001 Recurrent Security Classroom	1(i), 8, 10	
5161	5186	26	AA SOC Emergency Procedures Checklists	4(ii), 8(i)	
5187	5400	214	Ticketing information and Incident Reports Flights 11 and 77	6(i), 7	
5401	5650	250	Ticketing information and Incident Reports Flights 11 and 77	6(i), 7	

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

American Airlines Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave	Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
5893	5947	5947	55	Globe Aviation Services Corp., Report to AA on Boston Checkpoint Operations, September 11, 2001	4(i), 5, 8(i), 9(v)
5948	5952	5952	5	List of persons working at Boston Logan and Washington Dulles airports on September 11, 2001	8(i), 11(i)(A)
5953	6027	6027	75	Dispatch Environmental Control/Weekly Summary	8
6041	6052	6052	12	AA Investigation Reports	6(i), 7
6055	6062	6062	8	AA Investigation Reports	7
6063	6094	6094	32	SOCC Log	2(i), 2(iii), 6(i), 7, 8, 8(ii), 9(i), 9(ii), 11(i)(XD)
6205	6222	6222	18	List of AA employees	8, 11(i)(A)
6223	6261	6261	39	List of AA employees	5, 8, 11(i)(A)
6262	6295	6295	34	Personnel File (contains AA redactions)	1(i), 8, 8(i)
6296	6320	6320	25	Personnel File (contains AA redactions)	1(i), 8, 8(i)
6321	6349	6349	29	Personnel File (contains AA redactions)	1(i), 8, 8(i)
6350	6364	6364	15	Personnel File (contains AA redactions)	1(i), 8, 8(i)
6365	6386	6386	22	Personnel File (contains AA redactions)	1(i), 8, 8(i)
6387	6408	6408	22	Personnel File (contains AA redactions)	1(i), 8(i)
6409	6452	6452	44	Personnel File (contains AA redactions)	1(i), 8(i)
6453	6472	6472	20	Personnel File (contains AA redactions)	1(i), 8, 8(i)
6473	6515	6515	43	Personnel File (contains AA redactions)	1(i), 8, 8(i)
6516	6553	6553	38	Personnel File (contains AA redactions)	1(i), 8, 8(i)
6554	6599	6599	46	Personnel File (contains AA redactions)	1(i), 8(i)
6600	6614	6614	15	Personnel File (contains AA redactions)	1(i), 8, 8(i)
6615	6659	6659	45	Personnel File (contains AA redactions)	1(i), 8, 8(i)
6660	6700	6700	41	Personnel File (contains AA redactions)	1(i), 8, 8(i)

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

American Airlines Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave	Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
	6701	6751	51	Personnel File	(b) (6), (b) (8)
	6752	6787	36	Personnel File (contains AA redactions)	(b) (6), (b) (8)
	6788	6837	50	Personnel File (contains AA redactions)	(b) (6), (b) (8)
	6838	6876	39	Personnel File (contains AA redactions)	(b) (6), (b) (8)
	6877	6900	24	Personnel File (contains AA redactions)	(b) (6), (b) (8)
	6901	6936	36	Personnel File (contains AA redactions)	(b) (6), (b) (8)
	6937	6966	30	Personnel File (contains AA redactions)	(b) (6), (b) (8)
	6967	6984	18	Personnel File (contains AA redactions)	(b) (6), (b) (8)
	7014	7057	44	Personnel File (contains AA redactions)	(b) (6), (b) (8)
	7220	7262	43	Personnel File (contains AA redactions)	(b) (6), (b) (8)
	7263	7285	23	Personnel File (contains AA redactions)	(b) (6), (b) (8)

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbriht Second Wave  
Index of Documents

In Re: September 11 Litigation		Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
603	608	6	Aircraft Operator Standard Security Program (AOSSP), Chronological Record of Changes Up to Change 66	1(i)		
610	622	13	Use of Explosive Tract Detection Device (ETD), amendment to ACSPP, Feb. 21, 1999	1(i), 4(i), 8(i), 9(i), 9(iv)		
623	625	3	Air Carrier Standard Security Program (ACSSP), Change 54 Summary Highlights, June 28, 1999	1(i)		
629	631	3	FAA Test Objects (Pictures)	4(i)		
636	644	9	Use of ETD, amendment to ACSPP, June 1, 1998	1(i), 4(i), 8(i), 9(i), 9(iv)		
645	668	24	Air Transport Association (ATA), Screening Supervisor Handbook	4(i), 5, 9(v)		
669	669	1	Argenbriht Security Memorandum, Apr. 19, 2001	9(i)		
670	679	10	Instructors Answer Sheet, Checkpoint Security Supervisor (CSS) Test No. 1	9(iv)		
680	681	2	Procedures for Pre-Departure Memorandum, Feb. 7, 1997	9(i)		
682	698	17	ACSPP, COG/ATA Training Manual and Guidelines for Screening Passengers with Physical Disabilities	1(i), 9(i), 10		
700	700	1	Practical Test Program Checklist	4(i), 9(i)		
701	701	1	Argenbriht Security Daily CSS Report, Oct. 24, 2000	8(i), 11(i)(A)		
702	702	1	FAA Screener Testing Form	4(i)		
704	704	1	Argenbriht Security Daily CSS Report, Nov. 11, 2000	8(i), 11(i)(A)		

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation	Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
705	706	2	Argenbright Security Daily CSS Report, Sept. 14, 2000	8(f), 11(G)(A)	
709	710	2	Argenbright Security Daily CSS Report, Dec. 12, 2000	8(f), 11(G)(A)	
711	712	2	Argenbright Security Daily CSS Report, Nov. 3, 2000	8(f), 11(G)(A)	
713	713	1	Argenbright Security Daily CSS Report, Sept. 20, 2000	8(f), 11(G)(A)	
714	714	1	Checkpoint Incident Log, Sept. 20, 2000	8(f), 11(G)(A)	
715	715	1	FAA inspection Report, Blank Form	4(f), 9(f)	
716	716	1	Argenbright Security Daily CSS Report, Apr. 7, 2001	8(f), 11(G)(A)	
717	717	1	Test Object Report	4(f)	
718	718	1	Screening Equipment Operational Test Log, Sept. 11, 2001 (existing redactions)	4(f), 9(v)	
719	719	1	Screening Equipment Operational Test Log, Sept. 11, 2001 (existing redactions)	9(v)	
721	721	1	Interoffice Correspondence Regarding Wheelchair Screening, Jan. 17, 1999	9(f)	
722	723	2	Argenbright Supervisor Duties, July 23, 1999	9(f)	
724	724	1	Physical Inspection Requests, Dec. 1, 1995	9(f)	
725	726	2	Argenbright Security Duties, July 23, 1999	9(f)	
728	728	1	Dangerous Objects Detection Form	4(f)	

**In Re: September 11 Litigation 21 MC 97, 21 MC 101**

**Argenbright Second Wave  
Index of Documents**

In Re: September 11 Litigation		Bates		Total	Document Title and/or Description	49 C.F.R. § 1520.5(b)
First	Last	Pages				
729	729	1	Argenbright Security Daily CSS Report, Oct. 30, 2000	1	Argenbright Security Daily CSS Report, Oct. 30, 2000	8(i), 11(i)(A)
730	730	1	Argenbright Security Daily CSS Report, Oct. 26, 2000	1	Argenbright Security Daily CSS Report, Oct. 26, 2000	8(i), 11(i)(A)
731	731	1	Memorandum to United's Contractor Screening Companies Re: Handwanding Pagers	1	Memorandum to United's Contractor Screening Companies Re: Handwanding Pagers	4(i), 9(i)
736	736	1	FAA Test Items Log In/Log out Sheet	1	FAA Test Items Log In/Log out Sheet	4(i)
739	739	1	Gun Procedure, Aug. 12, 2000	1	Gun Procedure, Aug. 12, 2000	9(i)
740	740	1	Instructions to Duty Managers, June 9, 2000	1	Instructions to Duty Managers, June 9, 2000	9(i)
741	741	1	Instructions for Screening Infants and Small Children	1	Instructions for Screening Infants and Small Children	9(i)
748	748	1	Memorandum to United's Contractor Screening Companies Re: Handwanding Pagers	1	Memorandum to United's Contractor Screening Companies Re: Handwanding Pagers	4(i), 9(i)
749	749	1	Physical Search Checklist	1	Physical Search Checklist	9(i)
752	752	1	Email re: laser pointers, May 27, 1999	1	Email re: laser pointers, May 27, 1999	1(i), 9(i)
753	753	1	Armed LEOs, Apr. 4, 1998	1	Armed LEOs, Apr. 4, 1998	1(i), 8(i)
754	754	1	Incident Report, Aug. 8, 2001	1	Incident Report, Aug. 8, 2001	8(i), 11(i)(A)

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation		Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
758	758	1	1	1	Incident Report, Apr. 5, 2001	8(i), 11(i)(A)
759	760	2	1	2	Incident Report, Jan. 22, 2001	8(i), 11(i)(A)
761	761	1	1	1	Incident Report, Oct. 30, 2000	8(i), 11(i)(A)
762	764	3	3	3	FAA Laptop Screening Memorandum	9(i)
765	766	2	2	2	Exit Guard Post Orders	8
768	768	1	1	1	Air Carrier Ground Security Coordinator (GSC)/Management Observations Procedures	9(i)
769	769	1	1	1	Argenbright Test Log	4(i)
770	770	1	1	1	Bag Check Procedures Memorandum, July 17, 1997	9(i)
771	771	1	1	1	Ongoing Test Object Program, March 30, 1994	4(i)
772	772	1	1	1	Screening Checkpoint Test	4(i), 8
773	774	2	2	2	Argenbright Daily CSS Report, Jan. 22, 2001	8(i), 11(i)(A)
775	775	1	1	1	Dangerous Objects Detection Form, 1999	4(i)
776	776	1	1	1	Argenbright Object Tests Performed	4(i), 8(i)
778	779	2	2	2	Alarm Recording Form, Sept. 6, 2001	4(i), 9(i), 9(v)
780	781	2	2	2	Alarm Recording Form, June 7, 2001	4(i), 9(i), 9(v)
782	783	2	2	2	Alarm Recording Form, Apr. 23, 2001	4(i), 9(i), 9(v)
784	785	2	2	2	Alarm Recording Form, Apr. 15, 2001	4(i), 9(i), 9(v)
786	786	1	1	1	Alarm Recording Form, Apr. 15, 2001	4(i), 9(i), 9(v)
787	788	2	2	2	Alarm Recording Form, Apr. 27, 2001	4(i), 9(i), 9(v)
789	790	2	2	2	Alarm Recording Form, Apr. 2, 2001	4(i), 9(i), 9(v)
791	792	2	2	2	Alarm Recording Form, Apr. 1, 2001	4(i), 9(i), 9(v)
793	794	2	2	2	Alarm Recording Form, June 8, 2001	4(i), 9(i), 9(v)
795	796	2	2	2	Alarm Recording Form, June 10, 2001	4(i), 9(i), 9(v)
797	799	3	3	3	Carry-On Bag/Item Selected During Continuous Search Alarm Resolution	9(i)
800	801	2	2	2	Alarm Recording Form, June 10, 2002	4(i), 9(i), 9(v)

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation		Bates First	Bates Last	Total	Document Title and/or Description	49 C.F.R. § 1520.5(b)
				Pages		
802	803	2	Alarm Recording Form (undated)	4(0), 9(i), 9(v)		
804	805	2	Alarm Recording Form, May 18, 2001	4(0), 9(i), 9(v)		
806	808	3	Air Carrier GSC/Management Checkpoint Observations Procedures	9(i)		
809	809	1	Physical Search for Classified Documents, July 15, 1998	9(i)		
810	812	3	Threat Image Projection (TIP) Operational Requirements, May 10, 2001	1(i), 4(i), 9(v), 9(vi)		
813	813	1	Security Breach and Response Procedures	9(i)		
815	818	4	ETD Alarm Recording Notebook	4(0), 9(i), 9(v)		
819	821	3	Alarm Recording Form, March 30, 2001	4(0), 9(i), 9(v)		
822	824	3	Alarm Recording Form, March 25, 2001	4(0), 9(i), 9(v)		
825	827	3	Alarm Recording Form, Feb. 15, 2001	4(0), 9(i), 9(v)		
828	830	3	Alarm Recording Form, Feb. 15, 2001	4(0), 9(i), 9(v)		
831	833	3	Alarm Recording Form, Apr. 8, 2001	4(0), 9(i), 9(v)		
834	836	3	Alarm Recording Form, Apr. 16, 2001	4(0), 9(i), 9(v)		
837	838	2	Alarm Recording Form, Apr. 10, 2001	4(0), 9(i), 9(v)		
839	841	3	Alarm Recording Form, Apr. 19, 2001	4(0), 9(i), 9(v)		
842	844	3	Alarm Recording Form, June 4, 2001	4(0), 9(i), 9(v)		
845	847	3	Alarm Recording Form, Apr. 5, 2001	4(0), 9(i), 9(v)		
848	850	3	Alarm Recording Form, June 2, 2001	4(0), 9(i), 9(v)		
851	854	4	Alarm Recording Form, July 8, 2001	4(0), 9(i), 9(v)		
855	855	1	Inventory List of FAA Test Items, July 6, 2001	4(0), 9(i)		
858	858	1	Argenbright Security Daily CSS Report, Oct. 30, 2000	8(i), 11(i)(A)		
859	859	1	Argenbright Security Daily CSS Report, Sept. 14, 2000	8(i), 11(i)(A)		
860	861	2	Argenbright Security Daily CSS Report, Aug. 8, 2001	8(i), 11(i)(A)		
862	862	1	Argenbright Security Daily CSS Report, Aug. 10, 2001	8(i), 11(i)(A)		
863	863	1	Argenbright Security Daily CSS Report, Aug. 4, 2001	8(i), 11(i)(A)		

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

in Re: September 11 Litigation		Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
864	867	4	Alarm Recording Form, Jan. 16, 2001	4(0), 9(0), 9(v)		
868	868	1	ETD Alarm Resolution Log, Jan. 6, 2001	4(0), 9(0), 9(v)		
869	869	1	Argenbright Duty Manager Shift Report, Feb. 16, 2001	8(0), 11(0)(A)		
871	871	1	Incident Report, Apr. 5, 2001	8(0), 11(0)(A)		
874	875	2	Alarm Recording Log, Feb. 27, 2001	4(0), 9(0), 9(v)		
876	877	2	Explosives Detection Readout, Feb. 27, 2001	4(0), 9(0), 9(v)		
878	884	7	Alarm Recording Form, Feb. 27, 2001	4(0), 9(0), 9(v)		
885	887	3	Alarm Recording Form, Feb. 27, 2001	4(0), 9(0), 9(v)		
888	890	3	Alarm Recording Form, Feb. 23, 2001	4(0), 9(0), 9(v)		
891	892	2	Alarm Recording Form, Feb. 23, 2001	4(0), 9(0), 9(v)		
893	894	2	Alarm Recording Form, Feb. 23, 2001	4(0), 9(0), 9(v)		
895	900	6	Alarm Recording Form, Feb. 24, 2001	4(0), 9(0), 9(v)		
901	902	2	Alarm Recording Form, Feb. 22, 2001	4(0), 9(0), 9(v)		
903	904	2	Alarm Recording Form, Feb. 22, 2001	4(0), 9(0), 9(v)		
905	908	4	Alarm Recording Form, Feb. 22, 2001	4(0), 9(0), 9(v)		
909	910	2	Alarm Recording Form, Feb. 22, 2001	4(0), 9(0), 9(v)		
911	912	2	Alarm Recording Form, Feb. 22, 2001	4(0), 9(0), 9(v)		
913	915	3	Alarm Recording Form, Feb. 22, 2001	4(0), 9(0), 9(v)		
916	918	3	Alarm Recording Form, Feb. 19, 2001	4(0), 9(0), 9(v)		
919	921	3	Alarm Recording Form, Feb. 22, 2001	4(0), 9(0), 9(v)		
922	924	3	Alarm Recording Form, Feb. 18, 2001	4(0), 9(0), 9(v)		
925	927	3	Alarm Recording Form, Feb. 16, 2001	4(0), 9(0), 9(v)		
928	930	3	Alarm Recording Form, Feb. 16, 2001	4(0), 9(0), 9(v)		
931	933	3	Alarm Recording Form, Feb. 15, 2001	4(0), 9(0), 9(v)		
934	935	2	Alarm Recording Form, Feb. 14, 2001	4(0), 9(0), 9(v)		

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation		Bates First	Bates Last	Total	Document Title and/or Description	49 C.F.R. § 1520.5(b)
				Pages		
	936	938	938	3	Alarm Recording Form, Feb. 13, 2001	4(i), 9(i), 9(v)
	939	941	941	3	Alarm Recording Form, Feb. 13, 2001	4(i), 9(i), 9(v)
	942	943	943	2	Alarm Recording Form, Feb. 12, 2001	4(i), 9(i), 9(v)
	944	947	947	4	Alarm Recording Form, Feb. 12, 2001	4(i), 9(i), 9(v)
	948	952	952	5	Alarm Recording Form, Feb. 12, 2001	4(i), 9(i), 9(v)
	953	955	955	3	Alarm Recording Form, Feb. 11, 2001	4(i), 9(i), 9(v)
	956	958	958	3	Alarm Recording Form, Feb. 11, 2001	4(i), 9(i), 9(v)
	959	961	961	3	Alarm Recording Form, Feb. 11, 2001	4(i), 9(i), 9(v)
	962	964	964	3	Alarm Recording Form, Feb. 11, 2001	4(i), 9(i), 9(v)
	965	967	967	3	Alarm Recording Form, Feb. 11, 2001	4(i), 9(i), 9(v)
	968	970	970	3	Alarm Recording Form, Feb. 10, 2001	4(i), 9(i), 9(v)
	971	973	973	3	Alarm Recording Form, Feb. 10, 2001	4(i), 9(i), 9(v)
	974	976	976	3	Alarm Recording Form, Feb. 10, 2001	4(i), 9(i), 9(v)
	977	979	979	3	Alarm Recording Form, Feb. 10, 2001	4(i), 9(i), 9(v)
	980	983	983	4	Alarm Recording Form, Feb. 9, 2001	4(i), 9(i), 9(v)
	984	986	986	3	Alarm Recording Form, Feb. 9, 2001	4(i), 9(i), 9(v)
	987	989	989	3	Alarm Recording Form, Feb. 9, 2001	4(i), 9(i), 9(v)
	990	992	992	3	Alarm Recording Form, Feb. 8, 2001	4(i), 9(i), 9(v)
	993	997	997	5	Alarm Recording Form, Feb. 8, 2001	4(i), 9(i), 9(v)
	998	1000	1000	3	Alarm Recording Form, Feb. 8, 2001	4(i), 9(i), 9(v)
	1001	1003	1003	3	Alarm Recording Form, Feb. 8, 2001	4(i), 9(i), 9(v)
	1004	1006	1006	3	Alarm Recording Form, Feb. 7, 2001	4(i), 9(i), 9(v)
	1007	1009	1009	3	Alarm Recording Form, Feb. 7, 2001	4(i), 9(i), 9(v)
	1010	1012	1012	3	Alarm Recording Form, Feb. 7, 2001	4(i), 9(i), 9(v)
	1013	1014	1014	2	Alarm Recording Form, Feb. 7, 2001	4(i), 9(i), 9(v)
	1015	1016	1016	2	Alarm Recording Form, Feb. 6, 2001	4(i), 9(i), 9(v)
	1017	1019	1019	3	Alarm Recording Form, Feb. 5, 2001	4(i), 9(i), 9(v)

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation	Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
	1020	1022	3	Alarm Recording Form, Feb. 1, 2001	4(i), 9(i), 9(v)
	1023	1025	3	Alarm Recording Form, Feb. 1, 2001	4(i), 9(i), 9(v)
	1026	1027	2	Alarm Recording Form, Feb. 1, 2001	4(i), 9(i), 9(v)
	1028	1030	3	Alarm Recording Form, Feb. 1, 2001	4(i), 9(i), 9(v)
	1031	1033	3	Alarm Recording Form, Feb. 1, 2001	4(i), 9(i), 9(v)
	1034	1035	2	Alarm Recording Form, Feb. 1, 2001	4(i), 9(i), 9(v)
	1036	1037	2	Alarm Recording Form, Feb. 1, 2001	4(i), 9(i), 9(v)
	1038	1040	3	Alarm Recording Form, Feb. 2, 2001	4(i), 9(i), 9(v)
	1041	1043	3	Alarm Recording Form, Feb. 3, 2001	4(i), 9(i), 9(v)
	1044	1046	3	Alarm Recording Form, Feb. 3, 2001	4(i), 9(i), 9(v)
	1047	1049	3	Alarm Recording Form, Feb. 3, 2001	4(i), 9(i), 9(v)
	1050	1060	11	ETD Standard Operating Procedures and Calibration Recording Notebook - Itemiser - W	4(i), 8(i), 9(i), 9(v)
	1061	1069	9	ETD Standard Operating Procedures and Calibration Recording Notebook - Barringer Ionscan	4(i), 8(i), 9(i), 9(v)
	1070	1070	1	Inventory List of FAA Test Items, July 16, 2001	4(i), 9(i)
	1071	1071	1	Incident Report, Aug. 3, 2001	8(i), 11(i)(A)
	1072	1072	1	Incident Report, June 28, 2001	8(i), 11(i)(A)
	1074	1074	1	Argenbright Security Daily CSS Report, Aug. 28, 2001	8(i), 11(i)(A)
	1075	1075	1	Incident Report, Aug. 28, 2001	8(i), 11(i)(A)
	1076	1076	1	Argenbright Security Daily CSS Report, Aug. 2, 2001	8(i), 11(i)(A)
	1077	1077	1	Incident Report, Aug. 3, 2001	8(i), 11(i)(A)
	1078	1078	1	Argenbright Security Daily CSS Report, Aug. 8, 2001	8(i), 11(i)(A)
	1079	1079	1	Argenbright Security Daily CSS Report, Aug. 9, 2001	8(i), 11(i)(A)
	1080	1080	1	Incident Report, Aug. 24, 2001	8(i), 11(i)(A)
	1081	1081	1	Argenbright Security Daily CSS Report, Aug. 24, 2001	8(i), 11(i)(A)

**In Re: September 11 Litigation 21 MC 97, 21 MC 101**

**Argenbright Second Wave  
Index of Documents**

In Re: September 11 Litigation		Bates		Total		Document Title and/or Description		49 C.F.R. § 1520.5(b)	
		First	Last	Pages					
1082	1082			1	Screening Equipment Operational Test Log, Sept. 11, 2001, (existing redactions)			4(f), 9(v)	
1083	1083			1	Argenbright Security Daily CSS Report, June 28, 2001			8(f), 11(f)(A)	
1084	1084			1	Incident Report, June 28, 2001			8(f), 11(f)(A)	
1085	1085			1	Argenbright Security Daily CSS Report, July 5, 2001			8(f), 11(f)(A)	
1086	1086			1	Argenbright Security Daily CSS Report, July 30, 2001			8(f), 11(f)(A)	
1087	1087			1	Incident Report, July 30, 2001			8(f), 11(f)(A)	
1088	1089			2	Argenbright Security Continuous ETD/Bag Check (Nov. 01)			9(f)	
1090	1091			2	Argenbright Security Continuous ETD/Bag Check (Nov. 01)			9(f)	
1093	1093			1	Argenbright Security Daily CSS Report, June 15, 2001			8(f)	
1094	1094			1	Argenbright Security Daily CSS Report, Oct. 10, 2000			8(f), 11(f)(A)	
1095	1095			1	Argenbright Security Daily CSS Report, Aug. 30, 2001			8(f), 11(f)(A)	
1096	1096			1	Incident Report, Aug. 30, 2001			8(f), 11(f)(A)	
1097	1099			3	Memorandum from Dan Di Gusto re: United Airlines Breach Procedures, May 29, 1999			9(f)	
1100	1100			1	Argenbright Security Daily CSS Report, Oct. 30, 2000			8(f), 11(f)(A)	
1101	1101			1	Incident Report, Oct. 30, 2000			8(f), 11(f)(A)	
1102	1102			1	Argenbright Duty Manager Shift Report, Feb. 9, 2001			8(f), 11(f)(A)	
1103	1103			1	Argenbright Duty Manager Shift Report, Dec. 2, 2000			8(f), 11(f)(A)	
1104	1104			1	Argenbright Duty Manager Shift Report, Dec. 22, 2000			8(f), 11(f)(A)	
1105	1105			1	Checkpoint Incident Log, Sept. 20, 2000			8(f), 11(f)(A)	
1106	1106			1	Checkpoint Incident Log, Sept. 12, 2000			8(f), 11(f)(A)	
1107	1107			1	Argenbright Duty Manager Shift Report, Oct. 24, 2000			8(f), 11(f)(A)	
1111	1112			2	FAA Approved Test Objects			4(f)	
1113	1113			1	Object Test Report, Aug. 29, 2000			4(f)	

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation		Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
1114	1114	1	Argenbright Duty Manager Shift Report, Feb. 16, 2001	8(i), 11(i)(A)		
1115	1120	6	Job Description Checklist	9(i)		
1121	1121	1	ATA Monthly Screening Checkpoint Testing Summary	4(i), 5, 8(i)		
1122	1122	1	ATA Monthly Screening Checkpoint Testing Summary	4(i), 5, 8(i)		
1123	1125	3	Memorandum of Understanding re: Maintenance, Feb. 7, 2001	4(i), 8(i)		
1128	1135	8	Instructors Answer Sheet, CSS Test #1	9(iv)		
1136	1136	1	Instructors Answer Sheet, CSS Test #2	9(iv)		
1137	1142	6	Use of Explosive Detection System (EDS), CTX 550/2500 EDS Machines, Feb. 16, 1999	1(i), 4(i), 8(i), 9(i), 9(iv)		
1143	1143	1	Checkpoint Operations Memorandum, Aug. 31, 1983	4(i), 9(i)		
1144	1146	3	ACSSP Change 54 Summary Highlights	1(i)		
1148	1178	31	The Role of the GSC: Domestic Passenger Screening	1(i), 4(i), 8, 9(v)		
1180	1187	8	Equipment Components for Ionscan 400	4(i), 9(i)		
1188	1195	8	Equipment Components for Ionscan 400	4(i), 9(i)		
1196	1196	1	E-scan color key for X-Ray	4(i)		
1197	1209	13	Checkpoint Supervisors Duties and Responsibilities (Untitled)	4(i), 9(i)		
1212	1213	2	Checkpoint Screener Testing Procedures	4(i), 8(i), 9(i)		
1214	1214	1	Appendix XIV to ACSSP (Pages 2-3)	1(i)		
1222	1235	14	Omni Handheld Metal Detector Operation and Service Manual	4(i), 9(i)		
1236	1236	1	Security Bulletin, Civil Aviation Security Division, Plastic Semiautomatic Pistol	2(i), 3		
1241	1249	9	Role of the Air Carrier GSC, March 23, 1999	1(i), 5		

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

**Argenbright Second Wave  
Index of Documents**

In Re: September 11 Litigation		Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
1250	1282	33	Advanced Security Equipment Screening Procedures Instructor's Guide	Argenbright redactions.		
1283	1304	22	Advanced Security Equipment Screening Procedures Instructor's Guide, Barringer Ionscan 400	4(i), 9(i), 9(iv), 10		
1305	1390	86	Airline Security Supervisor Training Instructor's Guide	4(i), 5, 8(i), 9(i), 10		
1391	1417	27	Advanced Security Equipment Screening Procedures Instructor's Guide	Redactions by Argenbright		
1418	1430	13	Advanced Security Equipment Screening Procedures Instructor's Guide, Ion Track Itemizer	4(i), 9(i), 9(v), 10		
1431	1470	40	Advanced Security Equipment Screening Procedures Instructor's Guide, Barringer Ionscan 400	4(i), 9(i), 9(v), 10		
1471	1508	38	Advanced Security Equipment Screening Procedures Instructor's Guide, EGIS 3000	4(i), 9(i), 9(v), 10		
1509	1546	38	Advanced Security Equipment Screening Procedures Instructor's Guide, Thermedics Rampart	4(i), 9(i), 9(v), 10		
1547	1583	37	Advanced Security Equipment Screening Procedures Instructor's Guide, Graseby Plastic	4(i), 9(i), 9(v), 10		
1584	1627	44	Advanced Security Equipment Screening Procedures Instructor's Guide, CPAD Orion Plus	4(i), 9(i), 9(v), 10		
1635	1645	11	Argenbright Security Duty Manager Shift Report and Duty Logs, Sept. 9, 2001	4(i), 9(i)		
1650	1652	3	Alarm Recording Form, March 01, 2001	4(i), 9(i), 9(v)		
1653	1655	3	Alarm Recording Form, March 01, 2001	4(i), 9(i), 9(v)		
1656	1659	4	Alarm Recording Form, March 01, 2001	4(i), 9(i), 9(v)		
1660	1661	2	Alarm Recording Form, March 01, 2001	4(i), 9(i), 9(v)		
1662	1663	2	Alarm Recording Form, March 01, 2001	4(i), 9(i), 9(v)		
1664	1665	2	Alarm Recording Form, March 01, 2001	4(i), 9(i), 9(v)		
1666	1667	2	Alarm Recording Form, March 02, 2001	4(i), 9(i), 9(v)		

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation		Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
		1668	1670	3	Alarm Recording Form, March 03, 2001	4(i), 9(i), 9(v)
		1671	1673	3	Alarm Recording Form, March 04, 2001	4(i), 9(i), 9(v)
		1674	1678	5	Alarm Recording Form, March 04, 2001	4(i), 9(i), 9(v)
		1679	1681	3	Alarm Recording Form, March 04, 2001	4(i), 9(i), 9(v)
		1682	1683	2	Alarm Recording Form, March 05, 2001	4(i), 9(i), 9(v)
		1684	1685	2	Alarm Recording Form, March 06, 2001	4(i), 9(i), 9(v)
		1686	1688	3	Alarm Recording Form, March 07, 2001	4(i), 9(i), 9(v)
		1689	1690	2	Alarm Recording Form, March 07, 2001	4(i), 9(i), 9(v)
		1691	1693	3	Alarm Recording Form, March 07, 2001	4(i), 9(i), 9(v)
		1694	1696	3	Alarm Recording Form, March 07, 2001	4(i), 9(i), 9(v)
		1697	1699	3	Alarm Recording Form, March 11, 2001	4(i), 9(i), 9(v)
		1700	1701	2	Alarm Recording Form, March 12, 2001	4(i), 9(i), 9(v)
		1702	1704	3	Alarm Recording Form, March 12, 2001	4(i), 9(i), 9(v)
		1705	1706	2	Alarm Recording Form, March 13, 2001	4(i), 9(i), 9(v)
		1707	1709	3	Alarm Recording Form, March 13, 2001	4(i), 9(i), 9(v)
		1710	1711	2	Alarm Recording Form, March 14, 2001	4(i), 9(i), 9(v)
		1712	1713	2	Alarm Recording Form, March 14, 2001	4(i), 9(i), 9(v)
		1714	1715	2	Alarm Recording Form, March 14, 2001	4(i), 9(i), 9(v)
		1716	1718	3	Alarm Recording Form, March 16, 2001	4(i), 9(i), 9(v)
		1719	1721	3	Alarm Recording Form, March 17, 2001	4(i), 9(i), 9(v)
		1722	1723	2	Alarm Recording Form, March 19, 2001	4(i), 9(i), 9(v)
		1724	1725	2	Alarm Recording Form, March 20, 2001	4(i), 9(i), 9(v)
		1726	1727	2	Alarm Recording Form, March 20, 2001	4(i), 9(i), 9(v)
		1768	1793	26	Employment Screening	9(iv), 10
		1848	1933	86	United Airline Training and Qualification Record	4(i), 5, 8(i), 9(iv), 10

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation		Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
1997	2094	2094	98	United Airline Training and Qualification Record	4(i), 5, 8(i), 9(iv), 10	
2095	2160	2160	66	Employment Application	1(i), 8(i)	
2161	2229	2229	69	United Airline Training and Qualification Record	4(i), 5, 8(i), 9(iv), 10	
2320	2372	2372	53	United Airline Training and Qualification Record	4(i), 5, 8(i), 9(iv), 10	
2425	2470	2470	46	Certification File	4(i), 9(i), 9(iv), 10	
2529	2612	2612	84	United Airline Training and Qualification Record	4(i), 5, 8(i), 9(iv), 10	
2636	2685	2685	50	Supplemental information	1(i), 8(i)	
2686	2756	2756	71	United Airline Training and Qualification Record	4(i), 5, 8(i), 9(iv), 10	
2778	2821	2821	44	Personnel File	4(i), 5, 8(i), 9(iv), 10	
2822	2917	2917	96	United Airline Training and Qualification Record	4(i), 5, 8(i), 9(iv), 10	
2976	3000	3000	25	United Airline Training and Qualification Record	4(i), 5, 8(i), 9(iv), 10	
3001	3045	3045	45	Employment Application	1(i), 8(i)	
3046	3083	3083	38	United Airline Training and Qualification Record	4(i), 5, 8(i), 9(iv), 10	
3209	3254	3254	46	United Airline Training and Qualification Record	4(i), 5, 8(i), 9(iv), 10	
3287	3302	3302	16	Explosive Trace Detection Training screener performance evaluation	4(i), 9(i), 10	
3359	3408	3408	50	Personnel File	4(i), 5, 8(i), 9(iv), 10	

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

49 C.F.R. § 1520.5(b)

In Re: September 11 Litigation	Bates		Total	Document Title and/or Description	
	First	Last			
	3491	3603	113	Personnel File	4(i), 5, 8(i), 9(iv), 10
	3634	3653	20	Screener Qualification, Training and Certification Record	4(i), 5, 8(i), 9(iv), 10
	3691	3719	29	Screener Qualification, Training and Certification Record	4(i), 5, 8(i), 9(iv), 10
	3750	3780	31	Screener Qualification, Training and Certification Record	4(i), 5, 8(i), 9(iv), 10
	3823	3853	31	Screener Certification and Employment Qualifications	4(i), 5, 8(i), 9(iv), 10
	3893	3927	35	Screener Qualification, Training and Certification Record	4(i), 5, 8(i), 9(iv), 10
	3966	4005	40	Screener Certification and Employment Qualifications	4(i), 5, 8(i), 9(iv), 10
	4044	4083	40	Screener Qualification, Training and Certification Record	4(i), 5, 8(i), 9(iv), 10
	4209	4240	32	Screener Certification and Employment Qualifications	4(i), 5, 8(i), 9(iv), 10
	4308	4407	100	Screener Certification and Employment Qualifications	4(i), 5, 8(i), 9(iv), 10
	4490	4607	118	Screener Certification and Employment Qualifications	4(i), 5, 8(i), 9(iv), 10
	4661	4709	49	Screener Certification and Employment Qualifications	4(i), 5, 8(i), 9(iv), 10
	4741	4771	31	Screener Qualification, Training and Certification Record	4(i), 5, 8(i), 9(iv), 10

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

49 C.F.R. § 1520.5(b)

In Re: September 11 Litigation	Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
4807	4836	4836	30	Screening Qualification, Training and Certification Record	4(i), 5, 8(i), 9(iv), 10
4838	4840	4840	3	Alarm Recording Form, March 20, 2001	4(i), 9(i), 9(v)
4841	4843	4843	3	Alarm Recording Form, March 23, 2001	4(i), 9(i), 9(v)
4844	4846	4846	3	Alarm Recording Form, March 24, 2001	4(i), 9(i), 9(v)
4847	4849	4849	3	Alarm Recording Form, March 14, 2001	4(i), 9(i), 9(v)
4850	4852	4852	3	Alarm Recording Form, March 24, 2001	4(i), 9(i), 9(v)
4853	4855	4855	3	Alarm Recording Form, March 26, 2001	4(i), 9(i), 9(v)
4856	4859	4859	4	Alarm Recording Form, March 26, 2001	4(i), 9(i), 9(v)
4860	4861	4861	2	Alarm Recording Form, March 27, 2001	4(i), 9(i), 9(v)
4862	4864	4864	3	Alarm Recording Form, March 27, 2001	4(i), 9(i), 9(v)
4865	4867	4867	3	Alarm Recording Form, March 28, 2001	4(i), 9(i), 9(v)
4868	4870	4870	3	Alarm Recording Form, March 28, 2001	4(i), 9(i), 9(v)
4871	4873	4873	3	Alarm Recording Form, March 28, 2001	4(i), 9(i), 9(v)
4874	4875	4875	2	Alarm Recording Form, March 29, 2001	4(i), 9(i), 9(v)
4876	4877	4877	2	Alarm Recording Form, Apr. 3, 2001	4(i), 9(i), 9(v)
4878	4880	4880	3	Alarm Recording Form, Apr. 6, 2001	4(i), 9(i), 9(v)
4883	4884	4884	2	Alarm Recording Form, Apr. 11, 2001	4(i), 9(i), 9(v)
4885	4886	4886	2	Alarm Recording Form, Apr. 16, 2001	4(i), 9(i), 9(v)
4887	4889	4889	3	Alarm Recording Form, Apr. 17, 2001	4(i), 9(i), 9(v)
4890	4891	4891	2	Alarm Recording Form, Apr. 19, 2001	4(i), 9(i), 9(v)
4892	4894	4894	3	Alarm Recording Form, Apr. 19, 2001	4(i), 9(i), 9(v)
4895	4897	4897	3	Alarm Recording Form, Apr. 23, 2001	4(i), 9(i), 9(v)
4898	4900	4900	3	Alarm Recording Form, Apr. 24, 2001	4(i), 9(i), 9(v)
4901	4903	4903	3	Alarm Recording Form, Apr. 24, 2001	4(i), 9(i), 9(v)
4904	4905	4905	2	Alarm Recording Form, Apr. 25, 2001	4(i), 9(i), 9(v)

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation		Bates First	Bates Last	Total	Document Title and/or Description	49 C.F.R. § 1520.5(b)
				Pages		
4906		4908		3	Alarm Recording Form, Apr. 25, 2001	4(i), 9(i), 9(v)
4909		4911		3	Alarm Recording Form, Apr. 29, 2001	4(i), 9(i), 9(v)
4912		4912		1	Argenbright Security Daily CSS Report, Oct. 26, 2000	8(i), 11(i)(A)
4913		4915		3	Alarm Recording Form, Nov. 2, 2000	4(i), 9(i), 9(v)
4916		4918		3	Alarm Recording Form, Nov. 10, 2000	4(i), 9(i), 9(v)
4919		4920		2	Alarm Recording Form, Nov. 21, 2000	4(i), 9(i), 9(v)
4921		4923		3	Alarm Recording Form, Nov. 29, 2000	4(i), 9(i), 9(v)
4924		4925		2	Alarm Recording Form, Nov. 16, 2000	4(i), 9(i), 9(v)
4927		4928		2	Alarm Recording Form, Dec. 1, 2000	4(i), 9(i), 9(v)
4929		4929		1	Alarm Recording Form, Dec. 1, 2000	4(i), 9(i), 9(v)
4930		4932		3	Alarm Recording Form, Dec. 1, 2000	4(i), 9(i), 9(v)
4933		4934		2	Alarm Recording Form, Dec. 2, 2000	4(i), 9(i), 9(v)
4935		4936		2	Alarm Recording Form, Dec. 2, 2000	4(i), 9(i), 9(v)
4937		4938		2	Alarm Recording Form, Dec. 3, 2000	4(i), 9(i), 9(v)
4939		4940		2	Alarm Recording Form, Dec. 3, 2000	4(i), 9(i), 9(v)
4941		4944		4	Alarm Recording Form, Dec. 4, 2000	4(i), 9(i), 9(v)
4945		4946		2	Alarm Recording Form, Dec. 4, 2000	4(i), 9(i), 9(v)
4947		4948		2	Alarm Recording Form, Dec. 6, 2000	4(i), 9(i), 9(v)
4949		4950		2	Alarm Recording Form, Dec. 6, 2000	4(i), 9(i), 9(v)
4951		4952		2	Alarm Recording Form, Dec. 6, 2000	4(i), 9(i), 9(v)
4953		4955		3	Alarm Recording Form, Dec. 6, 2000	4(i), 9(i), 9(v)
4956		4957		2	Alarm Recording Form, Dec. 6, 2000	4(i), 9(i), 9(v)
4958		4960		3	Alarm Recording Form, Dec. 6, 2000	4(i), 9(i), 9(v)
4961		4964		4	Alarm Recording Form, Dec. 6, 2000	4(i), 9(i), 9(v)
4965		4966		2	Alarm Recording Form, Dec. 6, 2000	4(i), 9(i), 9(v)
4967		4969		3	Alarm Recording Form, Dec. 7, 2000	4(i), 9(i), 9(v)

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation		Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
		4970	4971	2	Alarm Recording Form, Dec. 7, 2000	4(i), 9(i), 9(v)
		4972	4974	3	Alarm Recording Form, Dec. 7, 2000	4(i), 9(i), 9(v)
		4975	4976	2	Alarm Recording Form, Dec. 7, 2000	4(i), 9(i), 9(v)
		4977	4978	2	Alarm Recording Form, Dec. 7, 2000	4(i), 9(i), 9(v)
		4979	4980	2	Alarm Recording Form, Dec. 7, 2000	4(i), 9(i), 9(v)
		4981	4983	3	Alarm Recording Form, Dec. 8, 2000	4(i), 9(i), 9(v)
		4984	4985	2	Alarm Recording Form, Dec. 8, 2000	4(i), 9(i), 9(v)
		4986	4987	2	Alarm Recording Form, Dec. 8, 2000	4(i), 9(i), 9(v)
		4988	4989	2	Alarm Recording Form, Dec. 8, 2000	4(i), 9(i), 9(v)
		4990	4991	2	Alarm Recording Form, Dec. 8, 2000	4(i), 9(i), 9(v)
		4992	4993	2	Alarm Recording Form, Dec. 8, 2000	4(i), 9(i), 9(v)
		4994	4995	2	Alarm Recording Form, Dec. 8, 2000	4(i), 9(i), 9(v)
		4996	4997	2	Alarm Recording Form, Dec. 9, 2000	4(i), 9(i), 9(v)
		4998	4999	2	Alarm Recording Form, Dec. 9, 2000	4(i), 9(i), 9(v)
		5000	5002	3	Alarm Recording Form, Dec. 9, 2000	4(i), 9(i), 9(v)
		5003	5004	2	Alarm Recording Form, Dec. 9, 2000	4(i), 9(i), 9(v)
		5005	5007	3	Alarm Recording Form, Dec. 10, 2000	4(i), 9(i), 9(v)
		5008	5009	2	Alarm Recording Form, Dec. 10, 2000	4(i), 9(i), 9(v)
		5010	5011	2	Alarm Recording Form, Dec. 11, 2000	4(i), 9(i), 9(v)
		5012	5013	2	Alarm Recording Form, Dec. 11, 2000	4(i), 9(i), 9(v)
		5014	5015	2	Alarm Recording Form, Dec. 11, 2000	4(i), 9(i), 9(v)
		5016	5017	2	Alarm Recording Form, Dec. 11, 2000	4(i), 9(i), 9(v)
		5018	5019	2	Alarm Recording Form, Dec. 11, 2000	4(i), 9(i), 9(v)
		5020	5021	2	Alarm Recording Form, Dec. 12, 2000	4(i), 9(i), 9(v)
		5022	5024	3	Alarm Recording Form, Dec. 13, 2000	4(i), 9(i), 9(v)
		5025	5026	2	Alarm Recording Form, Dec. 13, 2000	4(i), 9(i), 9(v)
		5027	5028	2	Alarm Recording Form, Dec. 13, 2000	4(i), 9(i), 9(v)

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation		Document Title and/or Description			49 C.F.R. § 1520.5(b)	
Bates First	Bates Last	Total	Pages			
5029	5030	2	2	Alarm Recording Form, Dec. 13, 2000	4(i), 9(i), 9(v)	
5031	5032	2	2	Alarm Recording Form, Dec. 13, 2000	4(i), 9(i), 9(v)	
5033	5034	2	2	Alarm Recording Form, Dec. 14, 2000	4(i), 9(i), 9(v)	
5035	5036	2	2	Alarm Recording Form, Dec. 14, 2000	4(i), 9(i), 9(v)	
5037	5038	2	2	Alarm Recording Form, Dec. 14, 2000	4(i), 9(i), 9(v)	
5039	5040	2	2	Alarm Recording Form, Dec. 15, 2000	4(i), 9(i), 9(v)	
5041	5042	2	2	Alarm Recording Form, Dec. 15, 2000	4(i), 9(i), 9(v)	
5043	5044	2	2	Alarm Recording Form, Dec. 15, 2000	4(i), 9(i), 9(v)	
5045	5048	4	4	Alarm Recording Form, Dec. 15, 2000	4(i), 9(i), 9(v)	
5049	5050	2	2	Alarm Recording Form, Dec. 17, 2000	4(i), 9(i), 9(v)	
5051	5052	2	2	Alarm Recording Form, Dec. 18, 2000	4(i), 9(i), 9(v)	
5053	5053	1	1	Alarm Recording Form, Dec. 18, 2000	4(i), 9(i), 9(v)	
5054	5055	2	2	Alarm Recording Form, Dec. 18, 2000	4(i), 9(i), 9(v)	
5056	5057	2	2	Alarm Recording Form, Dec. 18, 2000	4(i), 9(i), 9(v)	
5058	5059	2	2	Alarm Recording Form, Dec. 18, 2000	4(i), 9(i), 9(v)	
5060	5063	4	4	Alarm Recording Form, Dec. 19, 2000	4(i), 9(i), 9(v)	
5064	5065	2	2	Alarm Recording Form, Dec. 19, 2000	4(i), 9(i), 9(v)	
5066	5067	2	2	Alarm Recording Form, Dec. 19, 2000	4(i), 9(i), 9(v)	
5068	5069	2	2	Alarm Recording Form, Dec. 19, 2000	4(i), 9(i), 9(v)	
5070	5071	2	2	Alarm Recording Form, Dec. 19, 2000	4(i), 9(i), 9(v)	
5072	5073	2	2	Alarm Recording Form, Dec. 19, 2000	4(i), 9(i), 9(v)	
5074	5075	2	2	Alarm Recording Form, Dec. 20, 2000	4(i), 9(i), 9(v)	
5076	5077	2	2	Alarm Recording Form, Dec. 20, 2000	4(i), 9(i), 9(v)	
5078	5081	4	4	Alarm Recording Form, Dec. 20, 2000	4(i), 9(i), 9(v)	
5082	5085	4	4	Alarm Recording Form, Dec. 20, 2000	4(i), 9(i), 9(v)	
5086	5087	2	2	Alarm Recording Form, Dec. 21, 2000	4(i), 9(i), 9(v)	
5088	5089	2	2	Alarm Recording Form, Dec. 21, 2000	4(i), 9(i), 9(v)	

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation	Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
	5090	5092	3	Alarm Recording Form, Dec. 21, 2000	4(i), 9(i), 9(v)
	5093	5094	2	Alarm Recording Form, Dec. 21, 2000	4(i), 9(i), 9(v)
	5095	5097	3	Alarm Recording Form, Dec. 21, 2000	4(i), 9(i), 9(v)
	5098	5100	3	Alarm Recording Form, Dec. 19, 2000	4(i), 9(i), 9(v)
	5101	5102	2	Alarm Recording Form, Dec. 19, 2000	4(i), 9(i), 9(v)
	5103	5105	3	Alarm Recording Form, Dec. 16, 2000	4(i), 9(i), 9(v)
	5106	5107	2	Alarm Recording Form, Dec. 22, 2000	4(i), 9(i), 9(v)
	5108	5109	2	Alarm Recording Form, Dec. 22, 2000	4(i), 9(i), 9(v)
	5110	5111	2	Alarm Recording Form, Dec. 22, 2000	4(i), 9(i), 9(v)
	5112	5113	2	Alarm Recording Form, Dec. 22, 2000	4(i), 9(i), 9(v)
	5114	5115	2	Alarm Recording Form, Dec. 22, 2000	4(i), 9(i), 9(v)
	5116	5117	2	Alarm Recording Form, Dec. 23, 2000	4(i), 9(i), 9(v)
	5118	5119	2	Alarm Recording Form, Dec. 23, 2000	4(i), 9(i), 9(v)
	5120	5121	2	Alarm Recording Form, Dec. 23, 2000	4(i), 9(i), 9(v)
	5122	5123	2	Alarm Recording Form, Dec. 23, 2000	4(i), 9(i), 9(v)
	5124	5125	2	Alarm Recording Form, Dec. 24, 2000	4(i), 9(i), 9(v)
	5126	5127	2	Alarm Recording Form, Dec. 25, 2000	4(i), 9(i), 9(v)
	5128	5129	2	Alarm Recording Form, Dec. 25, 2000	4(i), 9(i), 9(v)
	5130	5131	2	Alarm Recording Form, Dec. 25, 2000	4(i), 9(i), 9(v)
	5132	5133	2	Alarm Recording Form, Dec. 25, 2000	4(i), 9(i), 9(v)
	5134	5135	2	Alarm Recording Form, Dec. 26, 2000	4(i), 9(i), 9(v)
	5136	5137	2	Alarm Recording Form, Dec. 26, 2000	4(i), 9(i), 9(v)
	5138	5139	2	Alarm Recording Form, Dec. 27, 2000	4(i), 9(i), 9(v)
	5140	5141	2	Alarm Recording Form, Dec. 27, 2000	4(i), 9(i), 9(v)
	5142	5144	3	Alarm Recording Form, Dec. 27, 2000	4(i), 9(i), 9(v)
	5145	5146	2	Alarm Recording Form, Dec. 27, 2000	4(i), 9(i), 9(v)
	5147	5148	2	Alarm Recording Form, Dec. 27, 2000	4(i), 9(i), 9(v)

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation		Bates First	Bates Last	Total	Document Title and/or Description	49 C.F.R. § 1520.5(b)
				Pages		
	5149		5152	4	Alarm Recording Form, Dec. 28, 2000	4(i), 9(i), 9(v)
	5153		5155	3	Alarm Recording Form, Dec. 28, 2000	4(i), 9(i), 9(v)
	5156		5157	2	Alarm Recording Form, Dec. 28, 2000	4(i), 9(i), 9(v)
	5158		5159	2	Alarm Recording Form, Dec. 28, 2000	4(i), 9(i), 9(v)
	5160		5162	3	Alarm Recording Form, Dec. 28, 2000	4(i), 9(i), 9(v)
	5163		5164	2	Alarm Recording Form, Dec. 29, 2000	4(i), 9(i), 9(v)
	5165		5166	2	Alarm Recording Form, Dec. 29, 2000	4(i), 9(i), 9(v)
	5167		5168	2	Alarm Recording Form, Dec. 29, 2000	4(i), 9(i), 9(v)
	5169		5170	2	Alarm Recording Form, Dec. 29, 2000	4(i), 9(i), 9(v)
	5171		5172	2	Alarm Recording Form, Dec. 29, 2000	4(i), 9(i), 9(v)
	5173		5174	2	Alarm Recording Form, Dec. 29, 2000	4(i), 9(i), 9(v)
	5175		5177	3	Alarm Recording Form, Dec. 29, 2000	4(i), 9(i), 9(v)
	5178		5182	5	Alarm Recording Form, Dec. 29, 2000	4(i), 9(i), 9(v)
	5183		5184	2	Alarm Recording Form, Dec. 30, 2000	4(i), 9(i), 9(v)
	5185		5186	2	Alarm Recording Form, Dec. 30, 2000	4(i), 9(i), 9(v)
	5187		5188	2	Alarm Recording Form, Dec. 31, 2000	4(i), 9(i), 9(v)
	5189		5190	2	Alarm Recording Form, Dec. 31, 2000	4(i), 9(i), 9(v)
	5191		5192	2	Alarm Recording Form, Dec. 31, 2000	4(i), 9(i), 9(v)
	5193		5194	2	Alarm Recording Form, Jan. 31, 2001	4(i), 9(i), 9(v)
	5195		5196	2	Alarm Recording Form, Jan. 17, 2001	4(i), 9(i), 9(v)
	5197		5198	2	Alarm Recording Form, Jan. 6, 2001	4(i), 9(i), 9(v)
	5199		5200	2	Alarm Recording Form, Dec. 30, 2000	4(i), 9(i), 9(v)
	5201		5202	2	Alarm Recording Form, Dec. 30, 2000	4(i), 9(i), 9(v)
	5203		5204	2	Alarm Recording Form, Dec. 31, 2000	4(i), 9(i), 9(v)
	5205		5206	2	Alarm Recording Form, Dec. 31, 2000	4(i), 9(i), 9(v)
	5207		5208	2	Alarm Recording Form, Dec. 31, 2000	4(i), 9(i), 9(v)
	5209		5210	2	Alarm Recording Form, Dec. 31, 2000	4(i), 9(i), 9(v)

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

<b>In Re: September 11 Litigation</b>	<b>Bates First</b>	<b>Bates Last</b>	<b>Total Pages</b>	<b>Document Title and/or Description</b>	<b>49 C.F.R. § 1520.5(b)</b>
	5211	5212	2	Alarm Recording Form, Dec. 31, 2000	4(i), 9(i), 9(v)
	5213	5214	2	Alarm Recording Form, Jan. 15, 2001	4(i), 9(i), 9(v)
	5215	5217	3	Alarm Recording Form, Nov. 23, 2000	4(i), 9(i), 9(v)
	5218	5220	3	Alarm Recording Form, Nov. 23, 2000	4(i), 9(i), 9(v)
	5221	5224	4	Alarm Recording Form, Nov. 24, 2000	4(i), 9(i), 9(v)
	5225	5226	2	Alarm Recording Form, Nov. 27, 2000	4(i), 9(i), 9(v)
	5227	5230	4	Alarm Recording Form, Nov. 22, 2000	4(i), 9(i), 9(v)
	5231	5232	2	Alarm Recording Form, Nov. 22, 2000	4(i), 9(i), 9(v)
	5233	5234	2	Alarm Recording Form, Nov. 22, 2000	4(i), 9(i), 9(v)
	5235	5236	2	Alarm Recording Form, Nov. 22, 2000	4(i), 9(i), 9(v)
	5237	5238	2	Alarm Recording Form, Nov. 22, 2000	4(i), 9(i), 9(v)
	5239	5240	2	Alarm Recording Form, Nov. 21, 2000	4(i), 9(i), 9(v)
	5241	5243	3	Alarm Recording Form, Nov. 21, 2000	4(i), 9(i), 9(v)
	5244	5245	2	Alarm Recording Form, Nov. 21, 2000	4(i), 9(i), 9(v)
	5246	5247	2	Alarm Recording Form, Nov. 22, 2000	4(i), 9(i), 9(v)
	5248	5249	2	Alarm Recording Form, Nov. 22, 2000	4(i), 9(i), 9(v)
	5250	5251	2	Alarm Recording Form, Nov. 22, 2000	4(i), 9(i), 9(v)
	5252	5253	2	Alarm Recording Form, Nov. 21, 2000	4(i), 9(i), 9(v)
	5254	5255	2	Alarm Recording Form, Nov. 21, 2000	4(i), 9(i), 9(v)
	5256	5260	5	Alarm Recording Form, Nov. 21, 2000	4(i), 9(i), 9(v)
	5261	5262	2	Alarm Recording Form, Nov. 21, 2000	4(i), 9(i), 9(v)
	5263	5266	4	Alarm Recording Form, Nov. 21, 2000	4(i), 9(i), 9(v)
	5267	5268	2	Alarm Recording Form, Nov. 21, 2000	4(i), 9(i), 9(v)
	5269	5271	3	Alarm Recording Form, Nov. 21, 2000	4(i), 9(i), 9(v)
	5272	5273	2	Alarm Recording Form, Nov. 21, 2000	4(i), 9(i), 9(v)
	5274	5276	3	Alarm Recording Form, Nov. 20, 2000	4(i), 9(i), 9(v)
	5277	5278	2	Alarm Recording Form, Nov. 20, 2000	4(i), 9(i), 9(v)

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation		Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
	5279	5280	2	Alarm Recording Form, Nov. 20, 2000	4(i), 9(i), 9(v)	
	5281	5282	2	Alarm Recording Form, Nov. 20, 2000	4(i), 9(i), 9(v)	
	5283	5284	2	Alarm Recording Form, Nov. 20, 2000	4(i), 9(i), 9(v)	
	5285	5287	3	Alarm Recording Form, Nov. 20, 2000	4(i), 9(i), 9(v)	
	5288	5290	3	Alarm Recording Form, Nov. 20, 2000	4(i), 9(i), 9(v)	
	5291	5292	2	Alarm Recording Form, Nov. 20, 2000	4(i), 9(i), 9(v)	
	5293	5295	3	Alarm Recording Form, Nov. 18, 2000	4(i), 9(i), 9(v)	
	5296	5297	2	Alarm Recording Form, Nov. 18, 2000	4(i), 9(i), 9(v)	
	5299	5301	3	Alarm Recording Form, Nov. 17, 2000	4(i), 9(i), 9(v)	
	5302	5303	2	Alarm Recording Form, Nov. 18, 2000	4(i), 9(i), 9(v)	
	5304	5305	2	Alarm Recording Form, Nov. 18, 2000	4(i), 9(i), 9(v)	
	5306	5309	4	Alarm Recording Form, Nov. 18, 2000	4(i), 9(i), 9(v)	
	5310	5311	2	Alarm Recording Form, Dec. 20, 2000	4(i), 9(i), 9(v)	
	5312	5313	2	Alarm Recording Form, Dec. 20, 2000	4(i), 9(i), 9(v)	
	5314	5314	1	Alarm Recording Form, Dec. 28, 2000	4(i), 9(i), 9(v)	
	5315	5316	2	Alarm Recording Form, Dec. 29, 2000	4(i), 9(i), 9(v)	
	5317	5318	2	Alarm Recording Form, Dec. 27, 2000	4(i), 9(i), 9(v)	
	5319	5320	2	Alarm Recording Form, Dec. 22, 2000	4(i), 9(i), 9(v)	
	5321	5322	2	Alarm Recording Form, Dec. 25, 2000	4(i), 9(i), 9(v)	
	5323	5324	2	Alarm Recording Form, Dec. 25, 2000	4(i), 9(i), 9(v)	
	5325	5326	2	Alarm Recording Form, Dec. 20, 2000	4(i), 9(i), 9(v)	
	5327	5328	2	Alarm Recording Form, Dec. 20, 2000	4(i), 9(i), 9(v)	
	5329	5331	3	Alarm Recording Form, Dec. 21, 2000	4(i), 9(i), 9(v)	
	5332	5333	2	Alarm Recording Form, Dec. 20, 2000	4(i), 9(i), 9(v)	
	5334	5335	2	Alarm Recording Form, Dec. 20, 2000	4(i), 9(i), 9(v)	
	5336	5337	2	Alarm Recording Form, Dec. 21, 2000	4(i), 9(i), 9(v)	

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation		Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
	5338		5339	2	Alarm Recording Form, Dec. 21, 2000	4(i), 9(i), 9(v)
	5340		5342	3	Alarm Recording Form, Dec. 19, 2000	4(i), 9(i), 9(v)
	5343		5345	3	Alarm Recording Form, Dec. 19, 2000	4(i), 9(i), 9(v)
	5346		5347	2	Alarm Recording Form, Dec. 19, 2000	4(i), 9(i), 9(v)
	5348		5348	1	Alarm Recording Form, Dec. 18, 2000	4(i), 9(i), 9(v)
	5349		5350	2	Alarm Recording Form, Dec. 19, 2000	4(i), 9(i), 9(v)
	5351		5353	3	Alarm Recording Form, Dec. 18, 2000	4(i), 9(i), 9(v)
	5354		5356	3	Alarm Recording Form, Dec. 17, 2000	4(i), 9(i), 9(v)
	5357		5358	2	Alarm Recording Form, Dec. 21, 2000	4(i), 9(i), 9(v)
	5359		5361	3	Alarm Recording Form, Dec. 17, 2000	4(i), 9(i), 9(v)
	5362		5363	2	Alarm Recording Form, Dec. 16, 2000	4(i), 9(i), 9(v)
	5364		5366	3	Alarm Recording Form, Dec. 15, 2000	4(i), 9(i), 9(v)
	5367		5368	2	Alarm Recording Form, Dec. 15, 2000	4(i), 9(i), 9(v)
	5369		5370	2	Alarm Recording Form, Dec. 14, 2000	4(i), 9(i), 9(v)
	5371		5373	3	Alarm Recording Form, Dec. 14, 2000	4(i), 9(i), 9(v)
	5374		5375	2	Alarm Recording Form, Dec. 13, 2000	4(i), 9(i), 9(v)
	5376		5378	3	Alarm Recording Form, Dec. 13, 2000	4(i), 9(i), 9(v)
	5379		5381	3	Alarm Recording Form, Dec. 12, 2000	4(i), 9(i), 9(v)
	5382		5383	2	Alarm Recording Form, Dec. 2, 2000	4(i), 9(i), 9(v)
	5384		5385	2	Alarm Recording Form, Dec. 12, 2000	4(i), 9(i), 9(v)
	5386		5388	3	Alarm Recording Form, Dec. 12, 2000	4(i), 9(i), 9(v)
	5389		5390	2	Alarm Recording Form, Dec. 12, 2000	4(i), 9(i), 9(v)
	5391		5392	2	Alarm Recording Form, Dec. 11, 2000	4(i), 9(i), 9(v)
	5393		5394	2	Alarm Recording Form, Dec. 9, 2000	4(i), 9(i), 9(v)
	5395		5396	2	Alarm Recording Form, Dec. 10, 2000	4(i), 9(i), 9(v)
	5397		5398	2	Alarm Recording Form, Dec. 7, 2000	4(i), 9(i), 9(v)

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Argenbright Second Wave  
Index of Documents

In Re: September 11 Litigation		Bates First	Bates Last	Total Pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
5399	5401			3	Alarm Recording Form, Dec. 4, 2000	4(i), 9(i), 9(v)
5402	5403			2	Alarm Recording Form, Dec. 2, 2000	4(i), 9(i), 9(v)
5404	5405			2	Alarm Recording Form, Jan. 1, 2001	4(i), 9(i), 9(v)
5406	5407			2	Alarm Recording Form, Dec. 2, 2000	4(i), 9(i), 9(v)
5408	5410			3	Alarm Recording Form, Dec. 6, 2000	4(i), 9(i), 9(v)
5411	5412			2	Alarm Recording Form, Dec. 6, 2000	4(i), 9(i), 9(v)
5413	5413			1	Incident Report, Apr. 5, 2001	8(i), 11(i)(A)
5414	5414			1	Argenbright Duty Manager Shift Report, Feb. 21, 2001	8(i)
5545	5546			2	Test, with cover sheet	9(iv)
5547	5549			3	Test, with cover sheet	9(iv)
5555	5586			32	Testing File	4(i), 5, 8(i), 9(iv), 10
5587	5602			16	Qualification File	4(i), 5, 8(i), 9(iv), 10
5603	5722			120	Personnel File	4(i), 5, 8(i), 9(iv), 10

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Huntleigh Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave	1st	last	Total pages	Description (title and date)	49 C.F.R. § 1520.5(b)
5	103		99	Train-the-Trainer Course, March 26-29, 2001, in STL, revised March 14, 2001	4(i), 8(i), 9(i), 9(v), 10
104	223		120	Train-the-Trainer Material and Notes For ICTS/Huntleigh USA, March 26-29, 2001	4(i), 8(i), 9(i), 9(iv), 10
227	319		93	Semi-Annual Recurrent Training For PBS/CSS Memorandum	4(i), 8(i), 9(i), 9(v), 10
320	408		89	PBS/CSS, Recurrent Training Manual and Memo, Huntleigh USA Corp., Revised April 25, 2000	4(i), 8(i), 9(i), 9(iv), 10
409	449		41	Training Manual, Advanced Security Equipment Screening Procedures, Instructor Guide For Screener and Supervisor, ION Track Itemiser	4(i), 9(i), 9(v), 10
450	502		53	Training Manual, Advanced Security Equipment Screening Procedures, Instructor Guide For Screener and Supervisor, Barringer Ionscan 400	4(i), 9(i), 9(v), 10
503	543		41	Training Manual, Advanced Security Equipment Screening Procedures, Instructor Guide For Screener and Supervisor, EGIS 3000	4(i), 9(i), 9(v), 10
652	677		26	Lesson 1, Basic Screening Techniques and Procedures, Supervisor Training and ETD Training Instructor Guide, Feb. 1, 2001	4(i), 9(i), 10
678	685		8	Lesson 2, Special Screening Situations, Supervisor Training and ETD Training Instructor Guide, Feb. 1, 2001	9(i), 10
686	695		10	Lesson 3, Supervisor's Responsibilities, Supervisor Training and ETD Training Instructor Guide, Feb. 1, 2001	4(i), 9(i), 10
696	707		12	Lesson 4, Equipment Testing, Supervisor Training and ETD Training Instructor Guide, Feb. 1, 2001	4(i), 9(i), 10

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

**Huntleigh Second Wave  
Index of Documents**

<b>In Re: September 11 Litigation Second Wave</b>	<b>1st</b>	<b>last</b>	<b>Total pages</b>	<b>Description (title and date)</b>	<b>49 C.F.R. § 1520.5(b)</b>
708	717	10	Lesson 5, Incident Management and ER Procedures, Supervisor Training and ETD Training Instructor Guide, Feb 1, 2001	9(i), 10	
735	765	31	Lesson 8, Station Specific Instructions and Extra Material, Supervisor Training and ETD Training Instructor Guide, Feb 1, 2001	4(i), 4(i), 9(i), 9(v), 9(v), 10	
766	771	6	Advanced Security Equipment Screening Procedures for Screener and Supervisor Training Manual, Table of Contents, ETD Initial/Recurrent Supervisor Training Manual, Instructor Guide, ETD Barringer Ionscan 400	4(i), 10	
772	835	64	Checkpoint Security Supervisor (CSS) Enhanced Training, Preshift Operations	4(i), 9(i), 9(v), 10	
836	850	15	CSS Enhanced Training Instructor Guide, Observing the Checkpoint	4(i), 9(i), 9(v), 10	
851	865	15	CSS Enhanced Training Instructor Guide, Teaching Screeners	4(i), 5 8(i), 9(i), 9(v), 10	
866	873	8	CSS Enhanced Training Instructor Guide, Special Situations	9(i), 10	
879	895	17	CSS Enhanced Training Instructor Guide, Working with Management	4(i), 9(i), 10	
896	908	13	CSS Enhanced Training Instructor Guide, Special Situations	9(i), 10	
909	915	7	CSS Enhanced Training Student Workbook, Pre-Shift Operations	4(i), 9(i), 9(v), 10	
916	923	8	CSS Enhanced Training Student Workbook, Observing the Checkpoint	4(i), 9(i), 9(v), 10	
924	929	6			

**In Re: September 11 Litigation 21 MC 97, 21 MC 101**

**Huntleigh Second Wave  
Index of Documents**

<b>In Re: September 11 Litigation Second Wave</b>	<b>1st</b>	<b>last</b>	<b>Total pages</b>	<b>Description (title and date)</b>	<b>49 C.F.R. § 1520.5(b)</b>
	930	932	3	CSS Enhanced Training Student Workbook, Teaching Screeners	4(i), 5, 8(i), 9(i), 9(v), 10
	934	940	7	CSS Enhanced Training Student Workbook, Special Situations	9(i), 10
	941	952	12	CSS Enhanced Training Student Workbook, Working with Management	4(i), 9(i), 10
	953	961	9	CSS Enhanced Training Student Workbook, Pre-Shift Operations	4(i), 9(i), 9(v), 10
	962	967	6	CSS Enhanced Training Student Workbook, Observing the Checkpoint	4(i), 9(i), 9(v), 10
	968	970	3	CSS Enhanced Training Student Workbook, Teaching Screeners	4(i), 5, 9(i), 9(v), 10
	972	978	7	CSS Enhanced Training Student Workbook, Special Situations	9(i), 10
	979	989	11	CSS Enhanced Training Student Workbook, Working with Management	4(i), 9(i), 10
	990	1003	14	CSS Enhanced Training Student Workbook, Pre-Shift Operations	4(i), 9(i), 9(v), 10
	1004	1018	15	CSS Enhanced Training Student Workbook, Observing the Checkpoint	4(i), 9(i), 9(v), 10
	1019	1026	8	CSS Enhanced Training Student Workbook, Teaching Screeners	4(i), 5, 9(i), 9(v), 10
	1032	1048	17	CSS Enhanced Training Student Workbook, Special Situations	9(i), 10
	1049	1061	13	Manual, "Check Point Security Supervisor," July 2, 1998, Enhanced Training Student Workbook, Working with Management	4(i), 9(i), 10

**In Re: September 11 Litigation 21 MC 97, 21 MC 101**

**Huntleigh Second Wave  
Index of Documents**

<b>In Re: September 11 Litigation Second Wave</b>	<b>1st</b>	<b>last</b>	<b>Total pages</b>	<b>Description (title and date)</b>	<b>49 C.F.R. § 1520.5(b)</b>
	1062	1240	179	Airline Security Screener Trainer Instructor Guide	4(i), 9(i), 9(iv), 10
	1243	1277	35	Screener Policy and Procedure Manual, Revised March 1997	4(i), 9(i), 9(iv), 10
	1518	1543	26	Huntleigh Manager Manual; Revised August 2000, Section on Operations For Preboard Screeners	4(i), 5, 8(i), 9(i)
	1582	1582	1	Huntleigh Manager Manual; Revised August 2000, Checkpoint Test Results Form	4(i)
	1720	1720	1	Huntleigh Manager Manual; Revised August 2000, Checkpoint Test Results	4(i)
	1722	1722	1	Huntleigh Manager Manual; Revised August 2000, Practical Test Program	4(i), 8(i)
	1727	1731	5	Huntleigh Manager Manual; Revised August 2000, FAA Test Failure/ Breach Report	9(i)
	1732	1736	5	Huntleigh Manager Manual; Revised August 2000, Emergency Procedures, Breach Of Security Checkpoint	9(i)
	1737	1759	23	Huntleigh Manager Manual; Revised August 2000, Qualification/ Training and Certification Records	4(i), 9(i), 10
	1760	1782	23	Huntleigh Manager Manual; Revised August 2000, Testing Materials	4(i), 9(i), 9(iv), 10

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Huntleigh Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave		Total pages		Description (title and date)		49 C.F.R. § 1520.5(b)
1st	last					
1821	1821	1	1	FAA Test Objects Order Form	4(c)	
1892	1940	49	49	New Hire Packet, w/ Application	1(f), 4(i), 8(i), 9(i), 9(iv), 9(v), 10	
1941	2006	66	66	New Hire Packet w/ Application	1(f), 4(f), 8(i), 9(i), 9(iv), 9(v), 10	
2007	2113	107	107	Personnel File	1(f), 4(i), 8(i), 9(i), 9(iv)	
2114	2164	51	51	Personnel File	4(f), 9(f), 9(iv), 9(v), 10	
2165	2235	71	71	Personnel File	1(f), 4(i), 8(i), 9(i), 9(iv), 9(v), 10	
2236	2314	79	79	Personnel File	1(f), 4(f), 8(i), 9(i), 9(iv)	
2315	2395	81	81	Personnel File	1(f), 4(i), 8(i), 9(i), 9(iv), 9(v), 10	
2396	2478	83	83	Personnel File	1(f), 4(f), 8(i), 9(i), 9(iv), 9(v), 10	
2479	2547	69	69	Personnel File	1(f), 4(f), 8(i), 9(i), 9(iv), 9(v)	
2548	2629	82	82	Personnel File	1(f), 4(f), 8(i), 9(i), 9(iv), 9(v), 10	
2630	2740	111	111	Personnel File	1(f), 4(f), 8(i), 9(i), 9(iv), 9(v), 10	
2741	2808	68	68	Personnel File	1(f), 4(f), 8(i), 9(i), 9(iv), 9(v), 10	
2809	2890	82	82	Personnel File	1(f), 4(f), 8(i), 9(i), 9(iv), 10	
2891	2996	106	106	Personnel File	1(f), 4(f), 8(i), 9(i), 9(iv), 9(v), 10	
2997	3035	39	39	Personnel File	1(f), 4(f), 8(i), 9(i), 9(iv), 9(v), 10	
3036	3122	87	87	Personnel File	1(f), 4(f), 8(i), 9(i), 9(iv), 9(v), 10	
3123	3194	72	72	Personnel File	1(f), 4(f), 8(i), 9(i), 9(iv), 9(v), 10	
3214	3256	43	43	Maintenance Logs, Barrington Instrument Inc.	9(c)	

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

Huntleigh Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave	1st	last	Total pages	Description (title and date)	49 C.F.R. § 1520.5(b)
	3257	3313	57	Huntleigh USA Corp. Calibration Recording Forms	4(i), 9(i), 9(v)
	3314	3323	10	Huntleigh USA Corp. Calibration Recording Forms	4(i), 9(i), 9(v)
	3324	3488	165	Huntleigh Security Report Control Logs, Apr. 29, 2001 to Sept. 10, 2001	4(i), 5, 8(i), 9(i), 9(v)
	3495	3526	32	Armed Law Enforcement Officer Log, Sept. 3, 2001	9(i)
	3527	3562	36	Operational Test Logs	4(i), 9(i), 9(v)
	3563	3879	317	Machine Lunch Schedules	8(i), 9(i)
	3882	3883	2	Massport Executive Director's Memo Regarding Checkpoint Breaches	8(i), 9(i)
	3888	3890	3	Information Circular regarding IEDs	3, 9(i)
	3907	3921	15	Huntleigh Security Memoranda regarding FAA testing	4(i), 9(i)
	3926	3965	40	Huntleigh Incident Reports	9(i)

*In re September 11 Litigation 21 MC 97, 21 MC 101*

Globe Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave	1st	last	Total	Document Title and/or Description	49 C.F.R. § 1520.5(b)
			pages		
	812	938	127	Personnel and Training File	1(i), 4(i), 5, 8(i), 9(i), 9(iv), 9(v), 10
	939	1064	126	Personnel and Training File	4(i), 5, 9(i), 9(iv), 9(v), 10
	1065	1192	128	Personnel and Training File	4(i), 5, 9(i), 9(iv), 9(v), 10
	1193	1313	121	Personnel and Training File	4(i), 5, 9(i), 9(iv), 9(v), 10
	1314	1446	133	Personnel and Training File	4(i), 5, 9(i), 9(iv), 9(v), 10
	1447	1644	198	Personnel and Training File	1(i), 4(i), 5, 8(i), 9(i), 9(iv), 9(v), 10
	1645	1773	129	Personnel and Training File	1(i), 4(i), 5, 8(i), 9(i), 9(iv), 9(v), 10
	1774	1875	102	Personnel and Training File	4(i), 5, 9(i), 9(iv), 9(v), 10
	1876	1967	92	Personnel and Training File	4(i), 5, 9(i), 9(iv), 9(v), 10
	1968	2071	104	Personnel and Training File	4(i), 5, 9(i), 9(iv), 9(v), 10
	2072	2271	200	Personnel and Training File	4(i), 5, 9(i), 9(iv), 9(v), 10
	2272	2380	109	Personnel and Training File	4(i), 5, 9(i), 9(iv), 9(v), 10
	2381	2492	112	Personnel and Training File	4(i), 5, 9(i), 9(iv), 9(v), 10
	2493	2656	164	Personnel and Training File	4(i), 5, 9(i), 9(iv), 9(v), 10
	2657	2743	87	Personnel and Training File	1(i), 4(i), 5, 8(i), 9(i), 9(iv), 9(v), 10
	2754	2872	119	Airline Security Screener Training, Instructor Guide	4(i), 5, 9(i), 9(iv), 9(v), 10
	2873	2959	87	Airline Security Supervisor Training, Instructor Guide	4(i), 8, 9(i), 9(iv), 9(v), 9(vi), 10
	2960	3046	87	EDS/AT Operator Lesson Plan, co-located TRACE, Barringer Ionscan 400	4(i), 9(i), 9(v), 10
	3047	3109	63	Screeners/Checkpoint Security Supervisor Training, Ionscan 400	4(i), 9(i), 9(v), 10
	3110	3149	40	Advanced Security Equipment Screening Procedures for Screener and Supervisor Training Manual, Ion Track Itemiser	4(i), 9(i), 9(v), 10
	3150	3189	40	Advanced Security Equipment Screening Procedures for Screener and Supervisor Training Manual, Instructor Guide, ETD Barringer Ionscan 400	4(i), 9(i), 9(v), 10

*In re September 11 Litigation 21 MC 97, 21 MC 101*

Globe Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave	1st	last	Total pages	Document Title and/or Description	49 C.F.R. § 1520.5(b)
	3190	3227	38	Advanced Security Equipment Screening Procedures for Screener and Supervisor Training Manual, Instructor Guide, EGIS 3000	4(i), 9(i), 9(v), 10
	3228	3265	38	Advanced Security Equipment Screening Procedures for Screener and Supervisor Training Manual, Instructor Guide, Thermedics Rampart	4(i), 9(i), 9(v), 10
	3266	3303	38	Training Advance Security Equipment Manual Screening Procedures Instructor Guide, Graseby Plasteo	4(i), 9(i), 9(v), 10
	3304	3342	39	Training Advance Security Equipment Manual Screening Procedures Instructor Guide, Graseby Plasteo	4(i), 9(i), 9(v), 10
	3110	3342	233	Advanced Security Equipment Screening Procedures for Screener and Supervisor Training Manual, Instructor Guide, CPAD Orion Plus	4(i), 9(i), 9(v), 10
	3343	3429	87	MBS and IED Training For Globe Aviation Services Employees, Participant Manual	4(i), 9(i), 9(v), 10
	3430	3455	26	MBS and IED Training For Globe Aviation Services Employees, Image Interpretation	4(i), 9(i), 9(v), 10

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

United Airlines Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave	1st-page	Last-page	Total pages	Description (title and date)	49 C.F.R. § 1530.5(b)
1974	1974		1	Memorandum to Station Managers regarding Security Directive 95-02G (Threat to U.S. Carriers)	2(i), 4(ii), 9(i)
1976	1990		15	Sign-in sheet for Huntleigh Security Company for Logan Airport, Sept. 11, 2001	9(i)
1991	1991		1	Letter re: procedures to allow an armed law enforcement official through the checkpoint	8, 9(i)
1998	2008		11	Security Directive (SD) 96-05B	2(i)
2009	2015		7	SD-96-03H	2(i)
2016	2025		10	SD-96-05C	2(i)
2026	2033		8	SD-96-05F	2(i)
2034	2036		3	Email from Steve Jenkins to Rich Davis and Ed Eckardt, re: Pen Gun Weapon, July 27, 2000	9(vi)
2037	2037		1	Email from Steve Jenkins to Rich Davis, John McDonald, Ed Eckardt, re: Cell Phone Gun, Aug. 8, 2001	9(vi)
2038	2038		1	Email from Rich Davis to John McDonald, Jim Parks, Ann Leigh, Ed Eckardt, Ossie Montalvo, Glenn Winn re: cell phone guns, Aug. 10, 2001	9(vi)
2039	2039		1	Email from Steve Jenkins to Rich Davis, re: more on cell phone guns, Aug. 10, 2001	9(vi)
2040	2040		1	Email from Steve Jenkins to Rich Davis, Ed Eckardt, re: additional info on cell gun, Sept. 5, 2001	9(vi)
2041	2042		2	Email from Steve Jenkins to Ed Eckardt, Rich Davis, re: spring activated cigarette lighter knife, March 23, 2001	9(vi)

**In Re: September 11 Litigation 21 MC 97, 21 MC 101**

**United Airlines Second Wave  
Index of Documents**

<b>In Re: September 11 Litigation Second Wave</b>	<b>1st-page</b>	<b>Last-page</b>	<b>Total pages</b>	<b>Description (title and date)</b>	<b>49 C.F.R. § 1520.5(b)</b>
2043	2044	2	2	FAA letter re: covert testing and security procedures to be followed	9(i)
2045	2047	3	3	Information Circular 95-03	3(i)
2048	2049	2	2	Huntleigh Security Report/Control Log, Sept. 11, 2001	9(i)
2050	2051	2	2	Letter from Stephen Jenkins to Rich Davis, re: United's request to amend its ACSSP	1(i)
2218	2218	1	1	Email, re: hijacking procedures	1(i), 8(i)
2219	2502	284	284	United Corporate Emergency Response Manual (110-4)	4(ii), 8
2503	2510	8	8	Denver Crisis Support Center Activation Checklist for Sept. 11, 2001	4(ii), 8
2511	2512	2	2	Notification Call List Matrix, Sub-Sections 4.1 & 4.2	4(ii), 8(i)
2519	2524	6	6	United Employee Statements, re: Phone Calls from Flight Attendants on Flight 93 & 175	4(ii), 8
2525	2527	3	3	Email from Ron Strand to rrosauer@airfone.gte.com, re: fix call details, Oct. 31, 2001	4(ii), 8
2528	2528	1	1	Email from Ron Strand to Paul Mahon and Leonard Salinas, re: fix call detail, Oct. 31, 2001	4(ii), 8
2535	2535	1	1	Email from Ron Strand to rrosauer@airfone.gte.com, re: fix call detail, Oct. 30, 2001	4(ii), 8
2746	2746	1	1	Email from Ron Strand to Leonard Salinas, Michael Winter, and Hank Krakowski, re: fix call detail, Oct. 25, 2001	4(ii), 8
2747	2748	2	2	Email from Ron Strand to Paul Mahon and Leonard Salinas, re: fix call detail, Oct. 31, 2001	4(ii), 8

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

United Airlines Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave	1st-page	Last-page	Total pages	Description (title and date)	49 C.F.R. § 1520.5(b)
	2749	2749	1	Email from Ron Strand to rrosauer@airfone.gte.com, re: fix call details, Oct. 30, 2001	4(ii), 8
	2750	2751	2	Flight Dispatcher Timeline for Sept. 11, 2001, dated Sept. 12, 2001	4(ii), 8, 9(i)
	2752	2755	4	MOC Crisis Center Activity Timeline for Sept. 12, 2001	4(ii), 8, 9(i)
	2756	2763	8	Dispatch/SMFDO Timeline of Activities on Sept. 11, 2001	4(ii), 8, 9(i)
	2764	2766	3	Handwritten notes about airplane calls from Flight 175 on Sept. 11, 2001	4(ii), 8
	2773	2910	138	Sections from United Flight Operations Manual re: security	8(i)
	2977	3047	71	Sections from Flight Manual for B757/767 re: security	4(ii), 8
	3049	3080	32	Capt. Hank Krakowski Presentation to Delta/ALPA Safety Conference on the events of Sept. 11, 2001	4(ii), 8
	3261	3283	23	UA Today, Jan. 21, 1998, CAPPS training session	9(i), 9(ii), 10
	3284	3293	10	CAPPS Training Lesson	9(i), 9(ii), 10
	3294	3297	4	CAPPS Training Quiz	9(i), 9(ii), 9(iv) 10
	3298	3342	45	Instructor Guide for Initial Flight and Cabin Crew Training	8(i), 10
	3343	3488	146	Flight Attendant Recurrent Emergency Procedures Training Requirements	1(i), 4(ii), 8, 8(ii), 10
	3354	3359	6	Recurrent Security Training Study Program	8(i), 10
	3400	3488	89	Initial Ground Security Coordinator (GSC) Training, Facilitator Guide, Security Issues and Trends	1(i), 4(ii), 8, 8(ii), 10
	3489	3586	98	Initial GSC Training, Facilitator Guide, GSC Roles and Responsibilities	1(i), 8, 10

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

United Airlines Second Wave  
Index of Documents

In Re: September 11 Litigation Second Wave	1st-page	Last-page	Total pages	Description (title and date)	49 C.F.R. § 1520.5(b)
	3587	3647	61	Initial GSC Training, Facilitator Guide, Processing Customers and Baggage	(1(i), 5, 8, 9(i), 9(ii), 10
	3648	3742	95	Initial GSC Training, Facilitator Guide, Checkpoint Screening	4(i), 1(i), 5, 8, 9(i), 9(iv), 10
	3748	3812	65	Initial GSC Training, Facilitator Guide, Trace Detection	4(i), 7, 8(i), 9(i), 10
	3813	3860	48	Initial GSC Training, Facilitator Guide, Area and Aircraft Security	1(i), 8(i), 9(i), 10
	3861	3906	46	Initial GSC Training, Facilitator Guide, Emergency Response and Crisis Management	1(i), 8(i), 9(i), 10
	3907	3943	37	Initial GSC Training, Facilitator Guide, Case Studies and Skills Practice	4(i), 8, 9(i), 10
	3944	3974	31	Initial GSC Training, Facilitator Guide, Security Management at Your Station	5, 8, 9(i), 10
	4009	4053	45	Initial GSC Training, Facilitator Guide, Security Issues and Trends	1(i), 4(ii), 8, 8(ii), 10
	4054	4103	50	Initial GSC Training, Participant's Guide, GSC Roles and Responsibilities	1(i), 8, 10
	4104	4135	32	Initial GSC Training, Participant's Guide, Processing Customers and Baggage (and Checkpoint Screening)	(1(i), 5, 8, 9(i), 9(ii), 10
	4136	4183	48	Initial GSC Training, Participant Guide, Checkpoint Screening	1(i), 4(ii), 5, 8, 9(i), 10
	4184	4217	34	Initial GSC Training, Participant Guide, Trace and Explosive Detection	4(i), 7, 8(i), 9(i), 10
	4218	4244	27	Initial GSC Training, Participant Guide, Area and Aircraft Security	1(i), 8(i), 9(i), 10
	4245	4270	26	Initial GSC Training, Participant Guide, Emergency Response and Crisis Management	4(i), 8, 9(i), 10
	4271	4290	20	Initial GSC Training, Participant Guide, Case Studies and Skills Practice	4(i), 8, 9(i), 10
	4291	4307	17	Initial GSC Training, Participant Guide, Security Management at Your Station	5, 8, 9(i), 10
	4313	4339	27	Initial GSC Training, Instructor Guide, Closing and Evaluation	8, 9(i), 10
	4340	4359	20	GSC Recurrent Training Document	5, 8, 10

**In Re: September 11 Litigation 21 MC 97, 21 MC 101**

**United Airlines Second Wave  
Index of Documents**

<b>In Re: September 11 Litigation Second Wave</b>	<b>1st-page</b>	<b>Last-page</b>	<b>Total pages</b>	<b>Description (title and date)</b>	<b>49 C.F.R. § 1520.5(b)</b>
	4368	4370	3	Email from humling(a)jata.org to many. re: counterfeit documents, Aug. 11, 2000	4(ii), 8
	4371	4384	14	Domestic GSC training, program overview	9(i), 10
	4385	4399	15	2000 Pilot and Flight Attendant Recurrent Evacuation and Ditching Course	8(i), 10
	4400	4401	2	Flight Attendant/Pilot 2001 Recurrent Security Training Program	8(i), 10
	4415	4419	5	Initial CSR Training, Facilitator Guide	9(i), 9(iv), 10
	4459	4461	3	Initial CSR Training, Facilitator Guide	9(i), 10
	4514	4517	4	Initial CSR Training, Facilitator Guide	9(i), 9(ii), 10
	4566	4567	2	Initial CSR Training, Facilitator Guide	9(i), 10
	4590	4590	1	Initial CSR Training, Facilitator Guide	9(i), 10
	4606	4617	12	SD-97-01A	2(i)
	4368	4370	3	Email re: counterfeit IATA documentation	4(ii), 8
	4385	4399	15	Flight Attendant/Pilot 2000 Recurrent Security Training Program, Instructor Guide	1(i), 8(i), 10
	4371	4384	14	GSC Train-the-Trainer Manual	9(i), 10

*In Re: September 11 Litigation 21 MC 97, 21 MC 101*

**United Airlines Second Wave  
Index of Documents**

<b>In Re: September 11 Litigation Second Wave</b>	<b>1st-page</b>	<b>Last-page</b>	<b>Total pages</b>	<b>Description (title and date)</b>	<b>49 C.F.R. § 1520.5(b)</b>
	4514	4517	4	Initial CSR Training Participant's Guide	9(i), 9(ii), 10
	4566	4567	2	Initial CSR Training, Participant Guide	9(i), 10
	4590	4590	1	Initial CSR Training Participant Guide	9(i), 10
	4606	4617	12	SD-97-01A	2(i)

In re September 11 Litigation 21 MC 97, 21 MC 101

<p><b>Classification of Document</b>                      Troubleshooting Manual and Material For Airline and Screening Company Employees.</p>	<p><b>Regulatory Basis - 49 CFR § 1539.5(a)</b>                      Records created or obtained for the purpose of training persons employed by, contracted with, or acting for the Federal government or another person to carry out aviation or maritime transportation security measures required or recommended by DHS or DOT</p>	<p><b>Synopsis of Redacted Content</b>                      Description of screening equipment, particular screening method, and security measures</p>
<p>Manuals include:                      • Ground Security Coordinator Training Manual                      • In-Flight Security Coordinator Training Manual (Flight Manual and Air Operations Manual)                      • Preboarding Security Screeners (PSS) Training Manual                      • Checkpoint Security Supervisors (CSS) Training Manual                      • Test Knowledge and Appreciation</p>	<p>1539.5(a)(1) Any procedure, including selective criteria and any comments, notifications, and implementing guidance relating thereto, for screening of persons, accessible property, checked baggage, 11.5, mail, stores, and cargo, that is controlled by the Federal government or any other authorized person.                      1539.5(a)(2) Any security screening test and scores of such tests.                      1539.5(a)(3) Any performance specifications and test descriptions of a test object or test procedure. (For—Any device used by the Federal government or another person to carry out aviation or maritime transportation security requirements of Federal law for the detection of any weapon, explosive, incendiary, or destructive device or substance.                      1539.5(a)(4) Performance or testing data from security equipment or screening systems</p>	<p>Screening procedures and testing on such procedures (Blank and arrival keys)                      Minimum test standards and success knowledge test                      Training about descriptions and performance specifications of detection devices, such as X-ray, TDMIS machines, metal detectors (walk through and hand held), including testing procedures and calibration of these devices, and lesson plans that describe the calibration techniques/specifies for detection devices including specific compounds screened and procedures</p>
<p>1539.5(a)(1) Any vulnerability assessment directed, created, held, funded, or approved by the DOT, DHS, or (but will be provided to DOT or DHS in support of a federal security program</p>	<p>1539.5(a)(5) Specific details of aviation or maritime transportation security measures, both operational and technical, which are applied directly by the Federal government or another person, including—Security measures or protocols recommended by the Federal government.</p>	<p>Testing data and/or results of an operational nature such as performance testing of detector with different detection devices (e.g., TIPS images)                      Non-screening operational test/assessments (e.g., access control to airport ramps)</p>
<p>1539.5(a)(2) Any performance specifications and test descriptions of a test object or test procedure, for—any communications equipment used by the Federal government or any other person in carrying out or complying with any aviation or maritime transportation security requirements of Federal law.</p>	<p>1539.5(a)(6) Any performance specifications and test descriptions of a test object or test procedure, for—any communications equipment used by the Federal government or any other person in carrying out or complying with any aviation or maritime transportation security requirements of Federal law.</p>	<p>Communication software on Common Strategy and aircrew hijacking procedures for FSC/USC training</p>
<p>1539.5(a)(3) Specific details of aviation or maritime transportation security measures, both operational and technical, which are applied directly by the Federal government or another person, including—Security measures or protocols recommended by the Federal government.</p>	<p>1539.5(a)(7) Records created or obtained for the purpose of training persons employed by, contracted with, or acting for the Federal government or another person to carry out any aviation or maritime transportation security measures required or recommended by DHS or DOT</p>	<p>Testing data and/or results of an operational nature such as performance testing of detector with different detection devices (e.g., TIPS images)                      Non-screening operational test/assessments (e.g., access control to airport ramps)</p>



In re September 11 Litigation 21 MC 97, 21 MC 101

<p><b>Substance Tests and Calibration Records</b></p>	<p>1520.5(b)(14) Any performance specification and any description of a test object or test procedure, for any device used by the Federal government or any other person pursuant to an aviation or maritime transportation security requirements of Federal law for the detection of any weapon, explosive, incendiary, or destructive device or substance</p> <p>1520.5(b)(15) Any procedures, including selection criteria and any comments, instructions, and implementing guidance pertaining thereto, for screening of persons, accessible property, checked baggage, U.S. mail, stores, and cargo, that is conducted by the Federal government or any other authorized person</p> <p>1520.5(b)(16) Performance of testing data from security equipment or screening systems</p> <p>1520.5(b)(17) Details of any security inspection or investigation of an alleged violation of aviation or maritime transportation security requirements of Federal law that could reveal a security vulnerability, including the identity of the Federal special agent or other Federal employee who conducted the inspection or audit</p> <p>1520.5(b)(18) Any information held by the Federal government concerning threats against transportation or transportation systems and sources and methods used to gather or develop threat information, including threats against cyber infrastructure</p> <p>1520.5(b)(19) Any procedures, including selection criteria and any comments, instructions, and implementing guidance pertaining thereto, for screening of persons, accessible property, checked baggage, U.S. mail, stores, and cargo, that is conducted by the Federal government or any other authorized person</p> <p>1520.5(b)(20) Any performance specification and any description of a test object or test procedure, for any device used by the Federal government or any other person pursuant to an aviation or maritime transportation security requirements of Federal law for the detection of any weapon, explosive, incendiary, or destructive device or substance</p> <p>1520.5(b)(21) Any procedures, including selection criteria and any comments, instructions, and implementing guidance pertaining thereto, for screening of persons, accessible property, checked baggage, U.S. mail, stores, and cargo, that is conducted by the Federal government or any other authorized person</p> <p>1520.5(b)(22) Performance of testing data from security equipment or screening systems</p>
<p><b>Passenger Name Records - Ticket Information</b></p>	<p>Special agent name, intelligence (and suspects as possible threat information)</p>
<p><b>Log (LBO, Database, Operational Log)</b></p>	<p>References in armed law enforcement officer log</p> <p>References in operational test log</p>
<p><b>Calibration techniques and procedures including chemical testing charts and testing results</b></p>	<p>Calibration techniques and procedures including chemical testing charts and testing results</p>

In re September 11 Litigation 21 MC 97, 21 MC 101

<p>Right to be Forgotten (including Request for Deletion), ACARS (air-traffic reporting system) and electronic flight communications with aircraft.</p>	<p>1520.50(N)(1) Specific details of aviation or maritime transportation security measures, both operational and technical, whether applied directly by the Federal government or another person, including security measures or protocols recommended by the Federal government.</p> <p>1520.50(N)(2) Any performance specification and any description of a test object or test procedure, for any device used in, the Federal government or any other person pursuant to an aviation or maritime transportation security requirements of Federal law for the detection of any weapons, explosives, incendiary, or radioactive device or substance.</p> <p>1520.50(N)(3) Any performance specification and any description of a test object or test procedure, for any communications equipment used by the Federal government or any other person in carrying out or complying with any aviation or maritime transportation security requirements of Federal law.</p> <p>1520.50(N)(4) Specific details of aviation or maritime transportation security measures, both operational and technical, whether applied directly by the Federal government or another person, including security measures or protocols recommended by the Federal government.</p> <p>1520.50(N)(5) Any security program or security contingency plan used, established, required, received, or approved by DOT or DHS, including any security program, airport operator, or security contingency plan.</p> <p>1520.50(N)(6) Any Security Directive or order issued by TSA under § 1542.303, § 1544.305, or other authority.</p> <p>1520.50(N)(7) Any notice issued by DHS or DOT regarding a threat to an aviation or maritime transportation security, including any 1520.50(N)(8) Information Circular issued by TSA under § 1542.303, § 1544.305, or other authority.</p> <p>1520.50(N)(9) Any performance specification and any description of a test object or test procedure, for any communications equipment used by the Federal government or any other person in carrying out or complying with any aviation or maritime transportation security requirements of Federal law.</p> <p>1520.50(N)(10) Any performance specification and any description of a test object or test procedure, for any communications equipment used by the Federal government or any other person pursuant to an aviation or maritime transportation security requirements of Federal law for the detection of any weapons, explosives, incendiary, or radioactive device or substance.</p> <p>1520.50(N)(11) Any performance specification and any description of a test object or test procedure, for any communications equipment used by the Federal government or any other person in carrying out or complying with any aviation or maritime transportation security requirements of Federal law.</p> <p>1520.50(N)(12) Specific details of aviation or maritime transportation security measures, both operational and technical, whether applied directly by the Federal government or another person, including—Security measures or protocols recommended by the Federal government.</p> <p>1520.50(N)(13) Any procedures, including selection criteria and any comments, instructions, and implementing guidance pertaining thereto, for screening of persons, accessible property, checked baggage, U.S. mail, stores, and cargo, that is conducted by the Federal government or any other authorized person.</p> <p>1520.50(N)(14) Any performance specification and any description of a test procedure, for any device used by the Federal government or any other person pursuant to an aviation or maritime transportation security requirements of Federal law for the detection of any weapons, explosives, incendiary, or radioactive device or substance.</p> <p>1520.50(N)(15) Any procedures, including selection criteria and any comments, instructions, and implementing guidance pertaining thereto, for screening of persons, accessible property, checked baggage, U.S. mail, stores, and cargo, that is conducted by the Federal government or any other authorized person.</p> <p>1520.50(N)(16) Specific details of aviation or maritime transportation security measures, both operational and technical, whether applied directly by the Federal government or another person, including—Security measures or protocols recommended by the Federal government.</p> <p>1520.50(N)(17) Identifying information of certain transportation security personnel having unrestricted access to a secure area of an airport or a secure or restricted area of a maritime facility, port area, or vessel.</p>	<p>(Right Dispatch) DUCS documents</p> <p>Reference to emails re air phone and handwritten notes about air phone calls</p> <p>Security Plans, Checkpoint Operations Guide, ACSSP</p> <p>Security Directives</p> <p>Information Circulars</p> <p>AALJA SIA, Emergencies, Procedures Checklists - internal communication scheme and procedures</p> <p>MOCK Crisis Center Activity Timeline - alternative communication scheme and security information and eLearning procedures communicated during 9/11</p>
<p>Other aspects of the flight path of incident aircraft on 9/11</p>	<p>1520.50(N)(18) Any procedures, including selection criteria and any comments, instructions, and implementing guidance pertaining thereto, for screening of persons, accessible property, checked baggage, U.S. mail, stores, and cargo, that is conducted by the Federal government or any other authorized person.</p> <p>1520.50(N)(19) Any performance specification and any description of a test procedure, for any device used by the Federal government or any other person pursuant to an aviation or maritime transportation security requirements of Federal law for the detection of any weapons, explosives, incendiary, or radioactive device or substance.</p> <p>1520.50(N)(20) Any procedures, including selection criteria and any comments, instructions, and implementing guidance pertaining thereto, for screening of persons, accessible property, checked baggage, U.S. mail, stores, and cargo, that is conducted by the Federal government or any other authorized person.</p>	<p>In incident reports, reference to identification of individuals with unrestricted access to sterile areas</p>



Transportation  
Security  
Administration

**Determination Regarding Redacted Security Directives  
for Use in *United States v. Moussaoui*, 1:01-cr-00455 (E.D.Va.)**

In connection with *United States v. Moussaoui*, 1:01-cr-00455 (E.D. Va.), the United States Attorney for the Eastern District of Virginia and attorneys for Zacarias Moussaoui have requested authorization to use certain information contained within nine Security Directives in the public trial proceeding (hereinafter "Joint Request"). The specific Security Directives are as follows: SD-95-01, SD-95-02, SD-95-02H, SD-95-03C, SD-95-03D, SD-95-10, SD-108-98-04, SD-108-00-03B, and SD-108-01-01B.

Pursuant to 49 U.S.C. § 114(s) and 49 C.F.R. § 1520.5(b)(2), Security Directives constitute Sensitive Security Information (SSI), unless otherwise provided in writing by the Transportation Security Administration (TSA). Security Directives are one of the primary means by which the federal government mandates aviation security measures: when TSA determines that additional security measures are necessary to respond to a threat assessment or to a specific threat against civil aviation, it issues a Security Directive setting forth mandatory measures to be followed by airport and aircraft operators. See 49 U.S.C. §§ 1542.303, 1544.305. The criticality of these documents warrants their categorical designation as SSI.

The compelling interests at stake in *United States v. Moussaoui*, which include both the federal government's interest in combating and prosecuting terrorism and the protection of the defendant's constitutional rights, warrant a narrow exception to the categorical designation of Security Directives as SSI. Accordingly, TSA has redacted the nine Security Directives for use in the public trial proceeding. In the unusual circumstances presented, I determine that the release of such a limited amount of information will not be detrimental to transportation security.

Pursuant to 49 C.F.R. § 1520.5(b), upon consideration of the Joint Request, and in the interest of public safety or in furtherance of transportation security, I authorize the use of the nine Security Directives, as redacted, in the public trial proceeding.

Date: 3/22/06

RSJ  
Robert Jamison  
Deputy Administrator



Transportation  
Security  
Administration

**Addendum to Determination Regarding Redacted Security Directives  
for Use in *United States v. Moussaoui*, 1:01-cr-00455 (E.D.Va.)**

I execute this clarification of the Determination Regarding Redacted Security Directives that I signed on March 22, 2006 ("Determination") in order to correct a typographical error. The specific Security Directives that are the subject of the Determination are as follows: SD-95-01, SD-95-01D, SD-95-02B, SD-95-02H, SD-95-03C, SD-95-03D, SD-108-98-04, SD-108-00-03B, and SD-108-01-01B.

Date: 3/27/06

RS  
Robert Jamison  
Deputy Administrator